

# CZECH REPUBLIC

## Follow-up - State Reporting

### Action by Treaty Bodies, Including Reports on Missions

CCPR A/58/40 vol. I (2003)

## CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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### Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
<i>Seventy-second session (July 2001)</i>			
...			
Czech Republic	25 July 2002	9 December 2002 (partial reply); 24 July 2003 (further reply)	Decision on further action to be taken by the Committee at its seventy-ninth session.

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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260. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Of the 27 States parties (detailed below) that have been before the Committee under the follow-up procedure over the last year, only one (Republic of Moldova) has failed to provide information at the latest after dispatch of a reminder. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

261. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
...			
<i>Seventy-second session (July 2001)</i>			
Czech Republic	22 July 2002	9 December 2002 (partial reply)	A complete response was requested to supplement the partial reply.
		24 July 2003 (further reply)	At its seventy-ninth session, the Committee decided to take no further action.

## VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,<sup>20</sup> the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>21</sup> Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.<sup>22</sup>

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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**Ninetieth session (July 2007)**

**State party: Czech Republic**

**Report considered:** Second periodic (due since 1 August 2005), submitted on 24 May 2006.

**Information requested:**

Para. 9: Measures to eradicate all forms of police ill-treatment, in particular: (a) establishment of an independent mechanism for the investigation of complaints about actions of law enforcement officials; (b) initiation of disciplinary and criminal proceedings against alleged perpetrators, and compensation for victims; and (c) police training on the criminal nature of excessive use of force (arts. 2, 7, 9 and 26).

Para. 14: Measures to prevent unnecessary psychiatric confinement; ensure that all persons without full legal capacity are placed under guardianship representing and defending their wishes and interests; effective judicial review of the lawfulness of the admission and detention in health institutions of each person (arts. 9 and 16).

Para. 16: Measures to combat discrimination against Roma (arts. 2, 26 and 27).

**Date information due:** 1 August 2008

**Date information received:**

18 August 2008 Partial reply (response incomplete with regard to paragraphs 9, 14 and 16).

**Action taken:**

11 June 2008 A reminder was sent.

10 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

**Recommended action: If no information is received, a further reminder should be sent.**

**Next report due:** 1 August 2011

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

**CCPR, CCPR/C/SR.2738/Add.1 (2010)**

Human Rights Committee  
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting  
Held at Palais Wilson, Geneva,  
on Wednesday 28 July 2010, at 11:25 am

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**Follow-up to concluding observations on State reports and to Views under the Optional Protocol**

*Report of the Special Rapporteur for Follow-up on Concluding Observations  
(CCPR/C/99/2/CRP.1)*

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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17. The Czech Republic had sent additional replies, which were currently being translated.

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## Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,<sup>16</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,<sup>17</sup> an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>18</sup> Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.<sup>19</sup>

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in

the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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### **Ninetieth session (July 2007)**

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### **State party: Czech Republic**

**Report considered:** Second periodic (due since 1 August 2005), submitted on 24 May 2006.

#### **Information requested:**

Para. 9: Measures to eradicate all forms of police ill-treatment, in particular: (a) establishment of an independent mechanism for the investigation of complaints about actions of law enforcement officials; (b) initiation of disciplinary and criminal proceedings against alleged perpetrators, and compensation for victims; and (c) police training on the criminal nature of excessive use of force (arts. 2, 7, 9 and 26).

Para. 14: Measures to prevent unnecessary psychiatric confinement; ensure that all persons without full legal capacity are placed under guardianship representing and defending their wishes and interests; effective judicial review of the lawfulness of the admission and detention in health institutions of each person (arts. 9 and 16).

Para. 16: Measures to combat discrimination against Roma (arts. 2, 26 and 27).

**Date information due:** 1 August 2008

#### **Date information received:**

*18 August 2008* Partial reply (response incomplete with regard to paras. 9, 14 and 16).

*22 March 2010* Supplementary follow-up report received.

#### **Action taken:**

*11 June 2008* A reminder was sent.

*10 December 2008* A letter was sent to request additional information.

*6 May 2009* A reminder was sent to the State party.

*6 October 2009* A further reminder was sent.

*February 2010* The Special Rapporteur requested a meeting with a representative of the State

party.

**Recommended action: The additional replies of the State party should be sent for translation and considered at a later session.**

**Next report due: 1 August 2011**

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<sup>16</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

<sup>17</sup> *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

<sup>18</sup> The table format was altered at the ninetieth session.

<sup>19</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

**Follow-up - Reporting**  
**Action by State Party**

*CCPR CCPR/CO/72/CZE/Add.1 (2003)*

Distinguished Special Rapporteur,

Following your letter of 5 November 2002, I would like to inform you about developments so far concerning specific areas referred to in paragraph 27 of the concluding observations (CCPR/CO/72/CZE) of the Human Rights Committee (hereinafter referred to as “the Committee”) adopted after the examination of the initial report of the Czech Republic.

1. Recommendation regarding the setting up of effective procedures for the implementation of Views adopted by the Committee (para. 6)

The procedure for the implementation of the Views of the Committee was approved by resolution of the Government of the Czech Republic No. 527 dated 22 May 2002. According to this resolution, the procedure is applicable subject to the entry into force on 1 January 2003 of the relevant Amendment to Law No. 2/1969 Coll. of the laws on the establishment of ministries and other central authorities of the State administration of the Czech Republic.

According to articles 4 and 5 of Law No. 318/2001 Coll. of the laws on the provision of information and cooperation for the purpose of proceedings before the European Court on Human Rights and the Human Rights Committee, the responsibility for the implementation of the Views of the Committee is already assumed by the Ministry of Justice. The Ministry of Justice shall inform the Constitutional Court and the relevant authorities about the Views of the Committee concerning individual communications. Simultaneously, it shall request the relevant authorities to submit information about measures they had taken (intend to take) or had suggested (intend to suggest) in order to implement the Views of the Committee with regard to non-compliance with the Covenant by the Czech Republic. This information shall be submitted in writing in due course.

According to the above mentioned resolution and on the basis of the above information, the Minister of Justice shall submit to the Government the report about the Views of the Committee with regard to violations of the Covenant provisions by the Czech Republic as well as about the measures the relevant authorities had taken (intend to take) or had suggested (intend to suggest) in order to implement the Views of the Committee. The Minister of Justice, in cooperation with relevant authorities, shall recommend the measures to be adopted by the Government in order to implement the conclusions contained in the Views of the Committee. Should the violation of the Covenant provisions according to the Views of the Committee be related to the legislation, the Government shall inform the Chamber of Deputies of the parliament accordingly. The Government may submit a draft Law to the Chamber of Deputies in order to remedy the incompatibility of the legislation with the Covenant. The Ministry of Justice shall inform the Committee on behalf of the Czech Republic about the measures that have been taken in order to

implement the Views of the Committee.

2. Recommendation regarding the special schools (para. 9)

The document concerning the implementation of the recommendation contained in paragraph 9 of the concluding observations has been elaborated and should be approved by the Government by the end of this year. The Committee will be informed of the Government's decision subsequent to that date.

Recommendation regarding the investigation of complaints against police officers (para. 16)  
The monitoring of the police officers has been significantly improved due to the amendment to the Penal Procedure Code, which entered into force on 1 January 2002. According to this amendment, the authority to investigate alleged crimes committed by police officers was transferred from the Inspection of the Ministry of the Interior to the Public Prosecutor's Office, that is, out of the police structure.

The Commissioner for Human Rights is expected to submit a proposal for the establishment of an independent monitoring body to oversee the places where those who are deprived of their liberty are being held for the consideration of the Government. Other possible measures to be taken in order to improve the work of the police are still being discussed among the relevant ministries. Information on this issue will be submitted to the Human Rights Committee by the Government by the end of this year. The Committee will be informed accordingly.

Although at this stage I am able to give only partial responses to the issues raised, let me assure you, distinguished Special Rapporteur, about the particular attention being paid by the Government of the Czech Republic to the above mentioned issues of concern as well as to other recommendations of the Committee.

Yours sincerely,

Alexander Slabý  
Ambassador

**CCPR CCPR/CO/72/CZE/Add.2 (2003)**

**Comments by the Government of the Czech Republic (CCPR/CO/72/CZE)**

[24 July 2003]

I. Introduction

1. The Czech Republic as a State Party to the International Covenant on Civil and Political Rights submitted its initial report on the implementation of the obligations arising from this international instrument in the years 1993-1999 (hereinafter referred to as "the Czech Republic", "the Covenant", "the initial report") on 3 March 2000 (CCPR/C/CZE/2000/1). The initial report was considered by the Human Rights Committee (hereinafter referred to as "the Committee") during its seventy-second session on 11 and 12 July 2001.

2. The Committee's concluding observations on the Czech Republic are presented in document CCPR/CO/72/CZE of 27 August 2001. In paragraph 27 of this document the Czech Republic is asked to forward information on the implementation of the Committee's recommendations under paragraphs 6, 9 and 16 within 12 months.

3. Recommendations under paragraphs 6, 9 and 16 run as follows:

*6. The Committee is concerned at the apparent absence of procedures for dealing with the implementation of the Views of the Committee under the Optional Protocol. The Committee deeply regrets the position adopted by the State party in the cases of Simunek (516/1992) and Adam (586/1994), regarding the restitution of property or compensation under Act 87/91. The Committee also regrets the State party's response to its decision that the pre-condition of Czech citizenship for restitution or compensation under Act 87/91 was discriminatory and in violation of article 26 of the Covenant. A decision by the Constitutional Court on the constitutionality of the relevant law cannot exonerate the State party from its obligations under the Covenant (art. 2; Optional Protocol, arts. 1, 4).*

***The State party should reconsider its present law regarding the right to seek restitution of property or compensation. It should also put in place procedures to deal with views of the Committee under the Optional Protocol. In both cases, the Committee wishes to be informed about the outcome of this recommendation.***

*9. The Committee is particularly concerned about the disproportionate number of Roma children who are assigned to special schools designed for mentally disabled children, which would seem to indicate the use of stereotypes in the placement decisions, in contravention of article 26 of the Covenant, and which would make it difficult, if not impossible, to secure admission to secondary schools (art. 26).*

***The State party should take immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that placement in schools is***

***carried out on an individual basis and is not influenced by the child's ethnic group. Where needed, the State party should also provide special training to Roma and other minority children to secure, through positive measures, their right to education.***

*16. The Committee is concerned that complaints against the police are handled by an internal police inspectorate, while criminal investigations are handled by the Interior Ministry, which has overall responsibility for the police. This system lacks objectivity and credibility and would seem to facilitate impunity for police officers involved in human rights violations (arts. 2, 7, 9).*

***The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of power by the police.***

## II. Special Part

### Procedures for the implementation of the views of the Human Rights Committee concerning communications from individuals

4. According to Act No. 318/2001 to regulate the provision of information and other cooperation for the purposes of proceedings before the European Court of Human Rights and before the United Nations Human Rights Committee, the national implementation of the Committee's Views concerning violations of the Covenant is the responsibility of the Justice Ministry.

5. As soon as the Committee's Views concerning a communication are made public, the Justice Ministry informs the Constitutional Court and other bodies dealing with the case and asks them to report in writing on the measures that they have adopted (intend to adopt) or proposed (intend to propose) for the national implementation of the Committee's views. It sets a time-limit for the presentation of these reports.

6. The Minister of Justice then presents to the Czech Government his own summary report on the Committee's Views. The Minister's report sums up the information received from the competent bodies and recommends to the Government the steps to be taken to implement the Committee's Views. If the Committee holds that the violation is due to an existing national law, the Government informs the Chamber of Deputies of the Czech Parliament and possibly presents a bill to eliminate the conflict between the national law and the Covenant.

7. The Government then reports to the Committee on the measures taken to implement its Views.

### Position on the pre-condition of Czech citizenship in restitutions legislation

8. The Committee's Concluding Observations state that the Czech Republic "should reconsider its present law regarding the right to seek restitution of property or compensation". The Committee "deeply regrets the position adopted by the State party [Czech Republic] in the

cases of Simunek (516/1992) and Adam (586/1994), regarding the restitution of property or compensation under Act 87/91 [to regulate extrajudicial rehabilitations as amended]". The Committee's Views on these cases declared that the Czech citizenship pre-condition for restitutions or compensations was discriminatory and in violation of Article 26 of the Covenant.

9. The following is the position of the Czech Government on the Committee's Views concerning restitution laws:

- a) The restitution laws, primarily Extrajudicial Rehabilitations Act No. 87/1991 and Act No. 229/1991 to regulate the ownership of land and other agricultural property, were adopted after the fall of the communist regime that had caused to the Czechoslovak people immense wrongs, whether in the field of property ownership or in many other fields.
- b) In the early 1990's the legislator pursued two goals: to partly alleviate some of the wrongs committed in the past, and to speed up the economic reform and transition to a functioning market economy. Some of the rules have in the meantime been changed (or even repealed by the Constitutional Court), but the combination of past-oriented and future-oriented policies remains at the core of Czech restitutions legislation.
- c) For a nation seeking internal reconciliation after four decades of the totalitarian regime, dealing with its own past was an overriding concern. Today, in the light of the Committee's criticism, the Czech Republic would possibly choose a different solution, if it could once again start from the beginning in 1990. However, at that time the Czechoslovak Parliament thought it legitimate that the entitlement to restitutions and compensations should be confined to people who had a formal tie with the State, i.e. citizenship status (and initially also residence in the Czechoslovak territory) as a proof of their lasting allegiance.
- d) Likewise, at that stage of the economic reform it seemed adequate that, when seeking a settlement in the area of property relations, preference should be given to the country's own citizens. From this perspective, restitution of property can be regarded as a form of its privatization, i.e. its return into private hands, on the assumption that a private owner will manage it with due care and diligence.
- e) While the economic reform quickly gained momentum and today the transition from planned to market economy is practically completed, restitutions of property are still under way. Like any attempt to deal with the past, they have given rise to many controversies that the independent judiciary may sometimes find hard to resolve.
- f) In the Government's opinion there can be no question of a new round of restitutions or compensations, i.e. a new policy to permit the filing of additional restitution claims by persons who in the material period did not meet the citizenship pre-condition. Such policy would conflict with the rights of third parties who are not identical with the State. The restitutions process has led to tens of thousands of judicial and administrative decisions affecting a considerable volume of property, chiefly real

estate. In other words, the present property relations are to a great extent the product of the restitutions legislation. Moreover, in all likelihood the creation of a universal right to seek redress for past wrongs would be beyond the real capacity of the state budget.

g) The Government's present position is also based on the fact that it was the Czechoslovak State which, after the fall of the totalitarian regime in 1989, sought to deal with past wrongs on the broadest possible scale which the legislator found feasible. By contrast other Central and East European countries did not reconstitute properties at all, or did so very hesitantly and on a very limited scale.

h) The Government is well aware of its legal obligations arising from international human rights treaties to which the Czech Republic is a party, and is committed to progress in their implementation. Therefore it has given serious consideration to the recommendations and views of the Human Rights Committee, including the views on the discriminatory nature of the citizenship pre-condition in its restitutions legislation. While it regrets that some people might subjectively feel wronged again in the restitution process, it does not deem it feasible to change the system established by the restitutions legislation almost ten years ago, and to further prolong the process of alleviating the past wrongs in the field of property ownership.

#### Measures in the education system to enhance individual approach to the specific needs of children belonging to minorities, especially the Roma minority

##### Education of children belonging to the Roma minority

10. A certain number of children belonging to the Roma minority spend their compulsory school attendance term in special schools. Today, as in the past, a child can be referred to a special school on the basis of a psychoeducational assessment of his/her intellectual ability. Importantly, such referral can (and could) be ordered only with the prior written consent of the child's parents or statutory representatives. Children belonging to the Roma minority may end up in special schools not because they are Roma, but chiefly because of their language problems that make learning very difficult. The child's profile may also be influenced by different personality development, different set of values and different social and cultural environment of the Roma family. An important factor is that many parents are familiar with the special school system and automatically send their children to the school that they themselves attended.

##### Changes to the intellectual ability assessment method

11. To eliminate the social and cultural factors that differentiate Roma children from their peers, the primary step was to change the method of assessing the child's overall intellectual ability and its structure. In 1997 the Government instructed the Minister of Education "to prepare new tests for the purposes of referral to special schools, with greater emphasis on the specific talents and skills of Roma children, in order to eliminate the existing practice of too many Roma children placed in special schools without a reasonable justification based on their intellectual

and learning ability".<sup>1</sup>

12. A working group established at the Ministry of Education, Youth and Sports (hereinafter referred to as "the Education Ministry") recommended, as the first step, the national standardization of WISC-III UK tests. Wechsler Intelligence Scales (WISC) and their latest revised version WISC-III UK are the most widely used and world-known tests for assessing a child's intellectual ability. Compared with the previous assessment method, their results are less affected by the child's social and cultural background.

13. The national standards for WISC-III UK were set in 1998-2000 by the Czech Republic's Psychoeducational Guidance Institute in consultation with 120 psychologists from guidance centres in all parts of the country. Their experimental group of 1,457 children included 93.7% Czechs, 6.2% Roma and 0.1% other nationalities.

14. The national standards and adjustments of the test were presented to psychologists specializing in psychological assessment of children from multicultural backgrounds. Seminars were organized to teach the staff of guidance centres about the use and interpretation of the tests in assessing Roma children. A handbook reflecting the specific characteristics of Roma children was distributed to guidance centre psychologists. The training programmes offered by the Psychoeducational Guidance Institute regularly include seminars for teachers on assessing the learning abilities of Roma children.

#### Transfer from a special school to the ordinary school system

15. A child's placement in a special school is not irreversible. Like the procedures for referral to a special school, there exist procedures for transfers to the ordinary school system. Again, the change requires the consent of parents or statutory representatives; otherwise the child cannot leave the special school. Transfers from special schools on the basis of good academic performance are governed by Education Ministry Regulation No. 127/1997 concerning special schools and special kindergartens. The head of a special school must, following a consultation with parents, recommend the transfer of any child whose academic performance shows that he/she would be able to attend an ordinary school. He must inform the parents of all pupils about the possibility, as well as the conditions of such transfer. The parents are also entitled to take the initiative and set the transfer procedure in motion by asking for reassessment and equivalence tests. In deciding on a transfer, the primary consideration is the child's best interest. The two schools, special and ordinary, work closely with the guidance centre to make the transfer easy; if necessary, an individual study plan is prepared for the child.

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<sup>1</sup> Government Resolution No. 686 of 29 October 1997 concerning the Report on the Situation of the Roma Community in the Czech Republic and on the Present Situation in the Roma Community.

16. In the academic year 2001/2002 the Czech Schools Inspection carried out a survey on children transferred from special schools in 1999-2002, i.e. since the introduction of the Education Ministry's Methodical Instruction regulating transfers from special to ordinary schools. The inspectors worked with data on 25 special schools, i.e. just over 10% of the total number of 240 special schools.

Pupils transferred from examined special schools in the academic years 1999/2000-2001/2002

<i>Pupils, total</i>	<i>Academic year</i>			<i>Type of class at ordinary school</i>		<i>Result of transfer</i>	
	1999/2000	2000/2001	2001/2002	Special	Ordinary	Success	Failure
10	8	2	0	2	8	6	4

17. The effectiveness of the cited instruction was also examined by the Psychoeducational Guidance Institute. Questionnaires were distributed to 98 guidance centres, 73 of them responded (74.5%).

Transfers handled by psychoeducational guidance centres in the academic years 1998/1999-2000/2001:

<i>Academic year</i>	<i>Transferred pupils, total</i>
1998/1999	10
1999/2000	9
2000/2001	12

#### Head-start classes

18. Since 1993, the Education Ministry's policies to encourage the education of Roma children have included the establishment of "head-start classes" for pre-schoolers, as well as support for alternative education programmes. Initially the head-start classes existed only at special schools with specialist teachers experienced in working with Roma children. However, since their purpose is to prepare children from different social and cultural backgrounds for regular school attendance, the classes have gradually appeared at ordinary primary schools and, to a lesser extent, at some kindergartens.

19. In the trial period in 1997-2000, the Education Ministry found the project useful and decided to include it in the education system. A methodical instruction was issued to regulate the

establishment of head-start classes for socially disadvantaged children and to create the post of assistant teacher. Head-start classes have been offered by kindergartens, ordinary and special primary schools. The current trend is to open them at primary schools, so that the children can get used to the environment in which they will spend their compulsory school attendance term.

Head-start classes and children attending them in the academic years 1993/1994-2001/2002

<i>Academic year</i>	<i>Head-start classes</i>	<i>Attending children</i>
1993/1994	18	–
1994/1995	26	–
1995/1996	36	–
1996/1997	69	–
1997/1998	69	658
1998/1999	100	1237
1999/2000	114	1425
2000/2001	110	1364
2001/2002	109	1467

\* Data not available.

20. The methodical instruction permits the establishment of head-start classes for socially disadvantaged children, i.e. for children from families in a poor economic and social situation, children endangered by socio-pathological phenomena, child asylum seekers and children with asylum status. The percentage of Roma pupils is high due to their language problems and different social and cultural background.

#### Assistant teachers

21. The Education Ministry's Methodical Instruction to regulate the establishment of head-start classes for socially disadvantaged children and to create the posts of assistant teachers enables the head of schools and educational facilities with a high percentage of socially disadvantaged pupils to create the posts of assistant teachers (hereinafter referred to as "assistants"). In fact, the posts have existed at some schools since 1994 when the staff was known as "Roma pedagogical assistants".

Initially the assistants were trained and paid by the non-governmental non-profit organizations New School Prague (Nová škola Praha) and the Open Society Fund. Since 1998 they have

received wages from the state budget.<sup>2</sup> In 2000 the cited Education Ministry's instruction permitted the heads of schools to create the posts on their own initiative. Since then the number of assistants has grown steadily by 60-70 per year. On 31 December 2001 there were more than 230 assistant teachers working at kindergartens, primary and special schools.

22. After the initial steep rise in the number of schools with head-start classes and assistant teachers, the process has slowed down. The current offer of head-start classes and assistant teachers still does not fully cover all Roma communities in the Czech Republic.

Roma assistants - assistant teachers since their introduction

<i>Calendar year</i>	<i>Roma assistants - assistant teachers</i>
1997	20
1998	62
1999	160
2000	175
2001	230
2002	297

23. Candidates for the post must be familiar with the typical environment and background of the pupils. Assistants, especially those working with Roma children, usually come from a similar linguistic, social and cultural environment. Their function is to make the pupil-teacher relationship easier, to assist the communication between the parents and the school and possibly to liaise with the local Roma community and provide advice and guidance to other teachers.

24. At the end of 2001 the Government instructed the Education Minister to more intensively support and promote the establishment of head-start classes and assistant teaching posts and to encourage the creation of these posts at the 6th-9th grade of primary schools, at vocational schools and facilities providing institutional care and reformatory treatment.<sup>3</sup>

#### Access of special school pupils to secondary schools

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<sup>2</sup> Government Resolution No. 686 of 29 October 1997 concerning the Report on the Situation of the Roma Community in the Czech Republic and the Present Situation in the Roma Community.

<sup>3</sup> Government Resolution No. 1145 of 7 November 2001 concerning the proposed measures to intensify the implementation of the Concept of the Government Policy in respect of Persons Belonging to the Roma Community Promoting their Integration into the Society.

25. A radical change took place in 2000 when an amendment to Act No. 29/1984 to regulate the system of primary and secondary schools as amended opened the secondary schools system to pupils who have completed their compulsory school attendance term at special schools. Today, the only criterion is their score in the secondary school admission test. Completed ordinary school attendance is no longer the necessary pre-condition for admission to secondary schools.

26. Already since 1997 the Secondary School of Social Studies in Prague has been running an experimental project of two-grade extramural secondary study for Roma advisors and assistants working for the Government (Evangelical Academy). The course has received Education Ministry approval as an "experimental study programme -social work in an ethnic minority environment". The school has been fully funded from the state budget since 1998.

27. The Roma School of Social Studies (Romská škola sociální, s.r.o.) in Kolín, established in 1997 is a similar project. It intends to provide full secondary vocational education: the curriculum is tailored to the specific needs and social and cultural environment of the Roma community. The school prepares students for social work in Roma communities. Government subsidies (paid from the budget of the Central Bohemia region) account for 90% of its funding.

#### Other fields of education

28. In-service training on issues related to national minorities for the staff of psychoeducational guidance centres, educational counselling specialists and teachers is provided by the Psychoeducational Guidance Institute in Prague and by educational counselling centres. In 2001 an experimental arts school for Roma pupils was established under the aegis of the Czechoslovak Hussite Church (40 students, five teachers, including two Roma teachers).

29. The "Strategy for Improving the Education of Roma Children (2001)" is available on the Education Ministry website. It describes the plans for the education of Roma children through various programmes at all levels of the education system.

30. A significant element in the education of young Roma is the local community centre. There are more than one hundred community centres, mostly established by Roma or pro-Roma civic associations and offering leisure time activities and standard club programmes.

#### The minority education policy

31. The establishment and operation of schools or classes providing instruction to children of non-Czech nationalities in their own language usually depends on the interest of their parents, typically expressed through a civic association. In the State-run education system persons belonging to national minorities have the right to education in their own language.

32. To resolve the practical problems associated with the exercise of this right, the Education Ministry has created an Advisory Group on the questions of minority education. In 2001 the group comprised representatives of the Polish, German, Roma, Slovak, Hungarian and Ukrainian

minorities, as well as the Jewish community in the Czech Republic.<sup>4</sup>

33. In the State-run school system the education in minority languages can be provided only for larger groups concentrated in a certain area and able to fill the mandatory quota of pupils per class. These requirements are fully met only by the Polish minority. Other communities (Bulgarian, Croatian, Ruthenian, Russian, Greek and Ukrainian minorities, but even larger groups such as the Hungarian, German, Roma and Slovak minorities) pose a serious problem in the field of minority education because they are too dispersed or their numbers are too low. The State-run school system supports full minority education for the Polish, German and Roma communities, while other minorities are offered only complementary courses funded by the State from subsidies intended for extracurricular activities. For this reason the detailed information below refers only to Polish and German schools.

#### Polish minority education

34. The Polish national minority in Karvin á and Fr ýdek-M ítek districts uses a network of schools providing instruction in the Polish language. It includes kindergartens, primary schools, a grammar school and classes providing instruction in the Polish language at secondary vocational schools.

#### Children in Polish-language kindergartens

<i>District</i>	<i>Kindergartens</i>	<i>Children</i>
Fr ýdek-M ítek	24	426
Karvin á	14	275
<b>Total</b>	38	701

#### Children in Polish-language primary schools (academic year 2001/2002)

<i>District/Grade</i>	I	II	III	IV	V	VI	VII	VIII	IX	Total
Fr ýdek-M ítek, primary schools, total	114	153	147	153	166	152	173	179	184	1421
Karvin á primary schools, total	83	79	95	86	93	119	105	116	129	905

<sup>4</sup> In 2002 the group was enlarged to include representatives of the Bulgarian, Croatian, Ruthenian, Russian and Greek minorities.

<b>Primary schools, total</b>	<b>197</b>	<b>232</b>	<b>242</b>	<b>239</b>	<b>259</b>	<b>271</b>	<b>278</b>	<b>295</b>	<b>313</b>	<b>2326</b>
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Students at Polish-language secondary schools (academic year 2001/2002)

<i>Secondary school/Year</i>	6-I gram. III	I	II	III	IV	Total
Grammar school in _esk ýT_řín	23	122	124	105	93	467
incl.:Grammar School in _esk ýT_řín and its classes located in Karvin á		9428	9727	8619	6627	366101
Secondary Technical School in Karvin á(classes)		13	14	17	19	63
Business Academy in _esk ýT_řín (classes)		25	30	17	30	102
Nursing College in Karvin á (classes)		13	14	13	14	54
<b><i>Secondary school, total</i></b>	<b>23</b>	<b>173</b>	<b>182</b>	<b>152</b>	<b>156</b>	<b>686</b>

#### German minority education

35. The dispersed German minority does not meet the requirements for a full minority education system. The Education Ministry supports the study of the German language, *inter alia*, by encouraging primary schools to offer optional language courses outside their main curriculum. The policy in respect of the Hungarian and Greek minorities is the same, with optional courses of the minority language offered at schools.

36. The State-run schools system includes the Primary School of Czech-German Understanding, established in 1991 and fully funded by the State. The Education Ministry's network includes also Bernhard Bolzano Primary School, opened at T ábor in 1997. State subsidies account for 60% of its funding, the rest is raised from Czech and German sponsors. The curriculum is based on the programme for "Primary Schools with Intensified Language Instruction".

37. Thomas Mann Grammar School was established in 1995 by the Union of Germans - Prague and Central Bohemia Region - at the request of parents whose children attended the Primary School of Czech-German Understanding. During eight years of study it provides full secondary education, with instruction partly in German (mathematics, geography,

biology, German history, German literature).<sup>5</sup> The Education Ministry subsidies account for 90% of its funding.

38. Other important activities of the German minority in the field of education include the network of fourteen "Begegnungszentren" (meeting centres) in Brno, Havířov, Hlučín, Horní Slavkov, Cheb, Chomutov, Kravaře, Liberec, Moravská Třebová, Opava, Plzeň, Smrčovice, Šumperk and Trutnov. The network is fully funded by the German Government.

#### The control system of the Interior Ministry and the Czech Republic Police for investigating policemen's crimes

#### The term "complaint" in Czech legislation

39. The definition of "complaint" as a legal term slightly differs from the common meaning of the word. The operative legislation distinguishes between two types of complaints:

a) Complaints under Government Regulation No. 150/1958 concerning the processing of complaints, reports and suggestions from workers,

b) Complaints under Act No. 141/1961 concerning the criminal procedure as amended (hereinafter referred to as "the Code of Criminal Procedure").

40. "Complaints" are communications from natural and legal persons who in their individual interest seek the protection of violated or jeopardized rights or justified interests or draw attention to other shortcomings in the work of government authorities and other institutions, including the Interior Ministry or the Czech Republic Police. A "complaint" is not a communication from a natural or legal person seeking to assert his justified or jeopardized interests in the public interest.

41. Since all received communications are categorized according to content, the references in this chapter to "communications" should be understood as references to all complaints and other communications, except for reports on the commission of a crime and communications under the Code of Administrative Procedure (Act No. 71/1967). The processing of communications under Regulation No. 150/1958 is governed by the following rules:

a) All communications must be examined within 10 days from the date of delivery to the competent authority. If the communication cannot be disposed of within 10 days from the date of delivery, it must be disposed of within 30 days. This time-limit can be extended only in exceptional cases, with the consent of the competent senior officer or a person authorized by him. The author of the communication must be informed about the reasons for such extension;

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<sup>5</sup> Like in the cases of the Primary School of Czech-German Understanding, Thomas Mann Grammar School is supported by the German Government (assignment of "programme teachers", grants for the purchase of teaching aids). The classes in the highest grades are very small, and 25-30 students are admitted to the first grade.

- b) A communication which falls within the competence of another authority must be referred to such authority within 5 days from the date of delivery. The author must be informed about this step;
- c) It is inadmissible to refer a communication for processing to departments or staff members against whom it is directed;
- d) The author must be informed about the final disposal of the communication, even if it is found unsubstantiated.

42. "Complaints" under the Code of Criminal Procedure are the only regular remedy against resolutions of a police authority in criminal proceedings. These complaints can challenge any resolution of a police authority. Regarding the resolutions of courts and Prosecuting Attorneys, the complaint is admissible only against first instance resolutions, insofar as the Code of Criminal Procedure expressly permits the lodging of complaints.

43. The complaint has a suspensory effect only in cases expressly defined in the Code of Criminal Procedure. The resolution cannot be executed until it becomes final.

44. The complaint must be lodged with the authority against which it is directed within three days from the date on which the resolution was notified to the author.

45. The authority against which the complaint is directed can accept it, unless the change to the original resolution would affect the rights of another party to the criminal proceedings. The principle of *error coram nobis* is thus enshrined in the Code of Criminal Procedure (Section 146, paragraph 1).

46. The above explanation shows that the legal term "complaint" does not refer to complaints about offences. In these cases, it is necessary to immediately report that a crime has been committed. It is important to note that a report may be made by anyone who believes that a crime has been committed, regardless of the status of the alleged offender. The law enforcement authorities must initiate criminal prosecution in the course of their duties (*ex officio*) as soon as they learn about an unlawful activity (the principle of officiality in the criminal procedure).

47. A complaint directed against unlawful (but not criminal) conduct of a policeman may eventually lead to his criminal prosecution, if any of the control authorities examining the complaint finds that the unlawful conduct identified in it actually constitutes a crime. Such cases must be referred to a Prosecuting Attorney. On the other hand, if a criminal prosecution is initiated against a policeman, whether by a criminal report or by a Prosecuting Attorney acting *ex officio*, but it is found that his unlawful actions do not actually constitute a crime, the Prosecuting Attorney must refer his case to the control authorities of the Czech Republic Police.

The control system of the Interior Ministry and the role of the Interior Ministry and the Czech Republic Police in criminal prosecutions against policemen  
The internal control system

48. The internal control system of the Interior Ministry and the Czech Republic Police is based on a network of control bodies and teams, closely coordinated to ensure full and effective coverage.

49. The highest body responsible for internal control of all departments of the Interior Ministry and the Czech Republic Police is the Interior Ministry's Internal Control Department. Other internal control structures include

- a) the Control and Complaints Department at the Police Presidium
- b) the competent lower organizational units of the Czech Republic Police
- c) the Interior Minister's Inspection.

50. The competent lower organizational units of the Czech Republic Police are, at the first instance level, the District Directorates. Each District Directorate includes a control team that also handles complaints concerning the conduct of policemen. The second instance authority is the competent Regional Administration of the Czech Republic Police - see 4.2.2. below.

51. The mission of the Interior Minister's Inspection is to detect and ascertain facts indicating that a crime has been committed by a member of the Czech Republic Police personnel - see 4.2.4. below. Every unit of the Czech Republic Police must receive these complaints, and if they are outside the scope of its duties, refer them to the competent department.

52. The internal control is governed by Interior Ministry Directive No. 9/2000. The control bodies prepare half-yearly plans of main control tasks. The plan briefly states the reasons for including the control task and specifies its form and subject, the controlled departments as well as the timeframe and required coordination with other structures.

#### Control and complaints departments of the Czech Republic Police

53. The internal control system of the Czech Republic Police is based on a network of control bodies and teams, closely coordinated to ensure full and effective coverage. Any of them can handle communications concerning the conduct of policemen. The control structures of the Czech Republic Police include

- a) the control body of the Czech Republic Police Presidium - the Control and Complaints Department
- b) control departments at the regional and district Czech Republic Police Administrations, at the Czech Republic Police Administration in the Capital City of Prague and the Czech Republic Police Directorates in towns and cities.

54. The Control and Complaints Department of the Czech Republic Police Presidium is the highest control body of the Czech Republic Police. It has general powers and carries out specialized internal control of the police service, as well as control of the measures necessary for the proper functioning of all departments responsible to the Police President.

55. Beside the regular control activities it handles all communications concerning the conduct of policemen or the work of police departments in terms of Regulation No. 150/1958

and in terms of Petitioning Right Act No. 85/1990. Every communication is categorized according to its content, even if the heading or format is not correct. If the author is not satisfied with the final disposal and sends a new communication, the handling of his original communication is always reviewed. The new communication is referred to a superior department. The handling of repeated communications is the responsibility of the principal officer with supervision over the department that processed the original communication.

56. Communications directed against the Czech Republic Police are handled by a director authorized to manage personnel, or by a member of the department against which the communication is directed, provided that the director authorizes him to do so. Communications against the director are handled by his superior officer. The handling of repeated communications is the responsibility of the principal officer with supervision over the department that processed the original communication. If the author is not satisfied with the handling and results of the communication, he may directly contact the Control and Complaints Department at the Police Presidium or the Interior Ministry's Internal Control Department.

57. Complaints can be made orally or in writing. Oral complaints are recorded by the authorized staff and signed by the author. Complaints can also be sent by e-mail to the special address [stiznosti@mvr.cz](mailto:stiznosti@mvr.cz) which can be found on the Interior Ministry's official website.<sup>6</sup>

58. Every department of the Czech Republic Police has the duty to receive communications. If the communication is outside the scope of its competences, it must refer it to the competent department and inform the author about the fact.

59. If it is proved that the actions of a Czech Republic Police officer or employee were unlawful, the violator is held personally liable and the competent senior officer takes measures to prevent the recurrence of such incidents. The measures are regularly reviewed.

60. Police President's Order No. 127 of 7 November 2001 provides that one of the main control tasks in 2002 would be a review of the measures adopted by senior officers to eliminate the identified shortcomings as regards the official duties, powers and means available to the Czech Republic Police personnel. Special attention would be paid to the observance of correct procedures in taking an official action which leads to interference with a person's statutory rights and freedoms.

Controlling the control system - the Internal Control Department at the Interior Ministry<sup>7</sup>

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<sup>6</sup> The website contains practical information about the structures of the Interior Ministry and the Czech Republic Police, as well as the competences of each department. Visitors are also advised how to deal with the authorities.

<sup>7</sup> On 1 June 2002 the Internal Control Department was divided into the Internal Audit and Supervision Department and the Financial Audit Department. On 1 May 2002 the Communications Unit was transferred to the Minister's Secretariat.

61. The Internal Control Department at the Interior Ministry handles communications from natural and legal persons and records them in a central register. The data from the register are presented in annual Reports on the final disposal of communications. They show the overall situation in the processing of communications at the Interior Ministry and the Czech Republic Police, including the categories, time limits, etc. The department also organizes, coordinates and supervises the work of the control system. It identifies defects in the system and shortcomings in the work of the Interior Ministry as an administrative authority, including the monitoring of the related tasks.

62. The department includes a supervisory team that conducts inspections to check the effectiveness of the system, the organization and management of work, observance of the applicable laws and internal regulations and the effectiveness of the State control functions of the Interior Ministry and the Czech Republic Police.

63. Another team within the department handles communications from individuals. In accordance with Interior Ministry Directive No. 10/2000 it keeps a central register of communications from individuals (hereinafter referred to as "the register"), including their final disposal, and analyses their content. The register includes also data reported by other departments of the Interior Ministry, the Interior Minister's Inspection, the Control and Complaints Department of the Czech Republic Police, regional control and complaints departments of the Czech Republic Police and, in 2001, also the Czech Republic's Investigating Authority.

64. The Internal Control Department conducts in-depth inspections and random checks of the processing of communications. If it finds a mistake in the procedure, the responsible staff member is cautioned and the communication must be reviewed. After the review, the staff member must report to the Internal Control Department on the final disposal of the communication.

65. The Internal Control Department may check the formalities as well as the decision on the merits of the communication. The handling of communications is also checked by the Czech Republic Police Presidium.

66. According to the legislation cited above, complaints are processed either by the department competent to handle the merits of the case, or by specialized control structures.

67. In 2001 the registered communications totalled 6,703, including 797 repeated communications (11.9%). A total of 6,405 communications were disposed of; 819 of them were found substantiated (12.89%). 171 communications were referred to authorities outside the Interior Ministry structure (2.67%); 1,004 communications were filed away without an inquiry or disposed of in another way (15.68%).

68. The communications disposed of in this period concerned mostly the conduct of police officers in the course of criminal investigations (2,259 communications, 33.7%); 15.98% were found substantiated.

69. Comparison with the situation in previous years (1997-2000) shows that the number of received communications remains roughly the same and there is no rising trend.

70. The figures are roughly the same also as regards the total number of communications that were found substantiated - 12.89%, repeated communications - 11.9%, of which 10.77% were eventually found substantiated.

71. Analysis of received telephone calls and e-mails shows that the nature of communications is changing. Instead of complaints, the Interior Ministry is receiving requests for assistance from individuals and companies, including legal consultations or expert advice. Communications directed against police officers or Interior Ministry employees concern mostly inaction, improper conduct, mistakes or delays in investigating crimes or minor offences (mostly traffic offences) or incorrect handling of previous communications in terms of Regulation No. 150/1958.

72. In most cases the author is advised how to address his problem and whom to contact. Sometimes he is immediately put into touch (by telephone or e-mail) with the competent department at the Interior Ministry or the Czech Republic Police. Reports concerning alleged criminal activities are referred to the competent police departments in accordance with the Code of Criminal Procedure. Telephone calls or e-mails concerning misconduct of policemen are referred to the competent complaints and control departments of the Czech Republic Police for examination and decision on further steps.

#### The Interior Minister's Inspection and its work

73. The Interior Minister's Inspection (hereinafter referred to as "the Inspection") is a department at the Interior Ministry with status and tasks defined in Act No. 283/1991 to regulate the Czech Republic Police as amended (hereinafter referred to as "the Czech Republic Police Act"). The Act provides that the Inspection's main task is to detect and ascertain facts indicating that a crime has been committed by a policeman, and to take measures to identify the offender according to the procedure laid down in the Code of Criminal Procedure. The Inspection's inquiries are ordered on the basis of communications from natural and legal persons; the inquiry is mostly conducted by the Inspection staff themselves.

74. The Inspection is an Interior Ministry department directly responsible to the Interior Minister. It is headed by a director, assisted by deputy directors and heads of units. The Inspection has seventeen units. The First Unit is responsible for criminalistic analyses, logistics and support services necessary for the work of the whole Inspection. The Third Unit specializes in identifying criminogeneous factors and initial indications of individual types of crime committed by policemen. It has direct jurisdiction over policemen serving in Czech Republic Police units and services with nationwide powers and deals with extensive and serious cases which are beyond the scope of territorial police departments. The Second and Fourth to Sixteenth Units have territorial jurisdictions. The newly established Seventeenth Unit with a nationwide jurisdiction specializes in detecting and investigating economic and financial crimes committed by policemen.

75. The Inspection examines communications indicating that a member of the Czech

Republic Police has committed a crime. It also examines communications categorized as complaints in terms of Regulation No. 150/1958 if they are directed against the Police President and his deputies, members of the Czech Republic Police personnel assigned to other Interior Ministry structures, as well as heads of police schools, if they are policemen. Other complaints are referred to the competent departments of the Czech Republic Police.

76. In 2001, in contrast to the generally declining crime rates, the number of policemen's crimes detected and documented by the Inspection reached yet another record level.

77. In 2001, on the basis of the Inspection's documentation, the Czech Republic Police investigators filed charges against 468 policemen for a total of 665 criminal acts, including 244 cases of abuse of authority under Section 158 of Act No. 140/1961, the Criminal Code, as amended (roughly 37% of the overall crime rate), and 11 cases of neglected official duties under Section 159 of the Criminal Code (roughly 1.65% of the overall crime rate). The second largest category were insurance frauds under Section 250a of the Criminal Code which accounted for roughly 15% of policemen's crimes (98 cases).

78. Since the establishment of the independent Czech Republic in 1993, the statistics on policemen's crimes in 2001 show the highest clearance rate, the highest number of policemen facing criminal charges and the highest total number of crimes committed by policemen. By then, the rising trend had been obvious for four consecutive years; as regards the number of policemen facing criminal charges, the growth rate rose steeply from 10% in 2000 to 20% in 2001.

79. The number of criminal prosecutions against policemen was highest in the area under the jurisdiction of the Czech Republic Police in the Capital City of Prague, followed by areas under the jurisdiction of the Czech Republic Police Administrations in Northern Moravia and Northern Bohemia.<sup>8</sup>

80. The number of cleared crimes committed by policemen while on duty also rose visibly in comparison with their crimes committed in off-duty periods. 77% of policemen's crimes were committed during on-duty periods.

81. The number of offenders among the riot, traffic and criminal police personnel rose, while the previous dynamic growth in the number of criminal charges against the investigating services personnel stopped.

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<sup>8</sup> It is worth noting that the territorial jurisdictions of the Czech Republic Police departments are not fully identical with the "regions" as higher local government units under Constitutional Act No. 347/1997 to regulate the establishment of higher local government units as amended. The structure of the Czech Republic Police as defined in Interior Minister's Directive No. 71/2001 is different. The names of some regions may differ accordingly.

82. On the whole, the rise in policemen's crime rates is attributable to the suppression of latent crime, rather than an absolute growth of criminal activity within the Czech Republic Police.

83. The improved detection of latent crime was due to the increased number of the Inspection's staff, consistent efforts to improve their qualifications, as well as the creation of new departments to ensure a strong presence of inspectors in all regional structures of the police force.

84. The training of the Inspection's staff focuses on thorough knowledge of the laws and regulations concerning the conduct of policemen during police operations interfering with the rights of persons, in order to have every violation detected and documented and the violator brought before the competent authority.

Investigation of crimes committed by the Czech Republic Police personnel  
Situation as of 31 December 2001

85. Until the introduction of the amended Code of Criminal Procedure, the investigation of crimes committed by policemen was in the hands of the Inspection and investigators at the Investigating Authority of the Czech Republic Police.

86. The Inspection conducted criminal proceedings against policemen within the scope of its powers as a "police authority" in terms of the Code of Criminal Procedure. In accordance with the Code of Criminal Procedure, the Inspection also examined communications from natural and legal persons concerning alleged criminal activities of policemen. In these cases the Inspection had exclusive jurisdiction. No other police authority had the right to conduct criminal proceedings against a policeman. If the results of the inquiry indicated that a crime had been committed and that the suspected offender was a policeman, the Inspection referred the case to an investigator (at all levels of the Investigating Authority of the Czech Republic Police) and requested him to initiate criminal prosecution. If the Inspection concluded that no crime had been committed or if the inquiry did not identify the alleged violator, it resolved to discontinue the case. Complaints against this resolution could be lodged by any person directly affected by it or by the author of the original communication. They were lodged with the authority against which the original communication was directed within three days from the notification of the resolution. The complaint was reviewed by a Prosecuting Attorney who either dismissed it as unsubstantiated and upheld the resolution, or found the complaint justified and ordered the authority against which it was directed to review and resolve the case. If the policeman's identity was known and his actions did not constitute a crime, but merely a minor offence, the Inspection referred the case to the officer competent to exercise disciplinary authority over the policeman.

87. The Inspection was permitted to exercise the above powers only if the alleged offender was obviously a policeman who was still a member of the police force at the time of investigation.

88. If the allegations surfaced only after the policeman had left the police force, the Inspection could take action only if the crime was directly connected with his service in the

police force. In other situations it did not have this power.

89. The Inspection functioned as a police authority in examining communications concerning alleged crimes committed by policemen. If the crime carried a more than three years' prison sentence, the Inspection did not investigate, but functioned only as a police authority in terms of the Code of Criminal Procedure, i.e. its role was limited to inquiries, searches and documentation. Other investigative functions under the Code of Criminal Procedure were performed by the investigator.

#### The situation since 1 January 2002

90. Under the amended legislation the investigation of policemen's crimes is in the hands of the Prosecuting Attorney (Section 161, paragraph 3 of the Code of Criminal Procedure as amended by Act No. 265/2001). The Prosecuting Attorney is not part of the Interior Ministry structure.

91. The amendment did not affect the status of the Inspection as established in the Czech Republic Police Act. Like under the previous legislation, the Inspection functions as a police authority - but its powers cover all crimes committed by policemen, irrespective of the length of the prison sentence. If the Inspection takes measures which fall within the framework of criminal proceedings in order to detect and ascertain facts indicating that a crime has been committed by a policeman, it must make a record of these facts and the way in which they became known to it. Within 48 hours from the beginning of such proceedings, a copy of this record must be sent to the Prosecuting Attorney who will take over the case.

92. A Prosecuting Attorney investigating a policeman's crime may ask the Inspection, within the limits of its powers, to obtain individual items of evidence or to perform individual investigative acts, to secure the presence of the suspect or to deliver a document. The Inspection must promptly execute his requests.

93. A Prosecuting Attorney investigating a policeman's crime must observe, *mutatis mutandis*, the provisions regulating the investigative work of a police authority.

94. Complaints against the Prosecuting Attorney's decision can be lodged by any person directly affected by it or by the author of the original communication. They are lodged with the authority against which the original communication is directed within three days from the notification of the decision. The complaint is reviewed by a superior Prosecuting Attorney who either dismisses it as unsubstantiated and upholds the decision, or finds the complaint justified and orders the authority against which it is directed to review and resolve the case.

95. The Prosecuting Attorney investigates also the co-offenders who are not policemen, if all offenders whose crimes are interconnected, or all instances of a perpetual and multiple crime, or all parts of a perpetual crime are tried in a joint trial, unless there exist overriding grounds against such investigation.

96. In order to prevent disputes concerning the exercise of jurisdiction and powers in

criminal proceedings and other assistance necessary for criminal proceedings in cases where the Prosecuting Attorney conducts criminal proceedings against policemen, an agreement has been concluded between the Supreme Prosecuting Attorney's Office, the Czech Republic Police Presidium and the Inspection. The agreement sets out their respective responsibilities in the criminal proceedings and other assistance necessary for criminal proceedings, as well as the particular procedures which they wish to be followed if the assistance is provided at the request of a party to this agreement.

#### Plans for the future development of the control function within the Czech Republic Police

97. The Government intends to set up an independent control body to supervise detention facilities and to conduct preventive visits in places where persons deprived of their liberty are being held. The need to control the treatment of detainees and prisoners and the conditions of detention in various types of facilities in the Czech Republic has been noted by the relevant international human rights bodies.

98. The European Committee for the Prevention of Torture and Other Inhuman and Degrading Treatment or Punishment in its report on the visit to the Czech Republic carried out in 1997 invited the Czech Republic to establish a system of "visits to all prison establishments by an independent body ... with authority to receive - and, if necessary, take action on - prisoner's complaints". The Committee against Torture, a monitoring body of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in its Concluding Observations on the Czech Republic's second periodic report on the fulfilment of the obligations arising from the Convention of May 2001, recommended the Czech Republic to "set up an effective and independent system of control over prisoner's complaints and for the external and civic inspection of the prison system". In addition, the draft Optional Protocol to the Convention envisages the establishment of a Subcommittee on Prevention of Torture that should visit the places under the jurisdiction of the States Parties to the Protocol where persons are or may be deprived of their liberty. It also requires that each State Party should set up such visiting bodies at the national level.

99. As concerns the possible policies for independent control over the Czech Republic Police, with regard to the amendments to the Code of Criminal Procedure which took effect on 1 January 2002 (see description above), a possible solution would be to broaden the Prosecuting Attorney's powers to include not only crimes, but also non-criminal unlawful acts of policemen.

**CCPR, CCPR/C/CZE/CO/2/Add.1 (2008)**

**Comments by the Czech Republic on the concluding observations of the Human Rights Committee (CCPR/C/CZE/CO/2)\***

[18 August 2008]

1. On 25 July 2007, following the examination of the second periodic report (CCPR/C/CZE/2) on the performance of the International Covenant on Civil and Political Rights (hereinafter the “Report” and the “Covenant”), the Human Rights Committee (hereinafter the “Committee”) adopted the concluding observations (CCPR/C/CZE/CO/2). In paragraph 21 the Committee called upon the Czech Republic to provide within one year information on the follow-up given to the observations of the Committee, contained in paragraphs 9, 14 and 16. The response of the Czech Republic is to be found in the following three sections.

**I. Observation contained in paragraph 9**

**“9. The Committee regrets the persistent reports of the police misconduct, particularly against Roma and other vulnerable groups, especially at the time of arrest and detention, and the fact that the State party has failed to establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of powers by the police, as recommended in the Committee’s previous concluding observations. The Committee notes that this omission could contribute to de facto impunity for police officers involved in human rights violations (arts. 2, 7, 9 and 26).**

**The State party should take firm measures to eradicate all forms of police ill-treatment, and in particular:**

- (a) Establish a mechanism for the investigation of complaints concerning actions of law enforcement officials which is completely independent from the Ministry of the Interior, as recommended by the Governmental Council for Human Rights in 2006;**
- (b) Initiate disciplinary and criminal proceedings against alleged perpetrators, and grant compensation for victims; and**
- (c) Provide training to the police force with regard to the criminal nature of the excessive use of force.”**

**Response**

2. The Ministry of the Interior and the Police of the Czech Republic are working on improving the effectiveness of the proactive work of the police in relation to minorities. On 9 April 2008, the National Strategy for the work of the police of the Czech Republic in

relation to minorities for the period 2008-2012<sup>1</sup> was accepted; it represents fundamental conceptual materials establishing principles of police work in relation to minorities. The Strategy follows on the conceptual materials which have existed in the Czech Republic since 2003.<sup>2</sup> The Strategy enforces principles of modern police work in an ethnically and nationally diversified society and designates specific tasks to the sector of the Interior in the given area. Mainly it concentrates on the training of police officers, a thorough implementation of anti-discrimination procedures in police work and crime prevention within minority communities; it also lays emphasis on the cooperation of the police with local government and non-governmental sectors. The result of the systematic work of the police with minorities should be a professional approach of police officers to members of minorities adhering to the principles of community policing, maximum police awareness of the minority's background, mutual trust between the police and members of minorities, successful implementation of law and justice into the specific environment of social exclusion and, last but not least, police contribution to the integration of members of minorities into the society.

3. The Strategy imposes on the regional administration of the police the obligation to establish posts of liaison officers for working with minorities and their work groups. The objective of this systemic arrangement is to facilitate police contact and communication with minorities and their closed communities. The liaison officer is a specialized officer for the work regarding issues of police work in relation to minorities: he/she fulfils the role of an intermediary between the police and minority groups and offers the minority members aid in dealing with specific issues, which fall under the jurisdiction of the Police. The liaison officer also regularly monitors the structures of minority groups within a given locality and participates in the prevention of and fight against crime.

4. Since 2003, the service of a police assistant for work in socially excluded localities has been used in the Czech Republic on a local level. This service is a type of social work enabling the residents of socially excluded localities to contact and communicate with the police. The police assistant's clients are usually the victims and witnesses of latent criminality (usury, pandering, drugs distribution, human trafficking, youth crime, etc.), which is identified by the police only with great difficulties, because of the unwillingness of victims and witnesses to cooperate. The role of the assistant is to improve relationships between the police and the inhabitants of these enclaves and to contribute to the creation of such conditions, which would enable the people living in the area of socially excluded localities easier access to the services and help of the police. The service of a police assistant is guided by the principles of so-called community policing and it is based on partnership and close collaboration with the police and the service provider, who employs the police assistants.

### **Regarding subparagraph (a)**

5. In 2007 the Government adopted the "Comprehensive report on the effectiveness of legal regulations dealing with complaints", prepared by the Ministry of the Interior. The report concluded that it is not necessary to amend the current legal regulation. However, the proposal of the methodology of dealing more effectively with complaints was prepared on the basis of the legal regulation, with the aim to ensure harmonization of the execution of the settlement of the complaint.

6. From September 2007 to February 2008, the pilot operation of the anti-corruption telephone line 199 took place. The pilot project was formed on the basis of an agreement between the Ministry of the Interior and Transparency International - Czech Republic, a non-governmental organization, which operated the telephone line. The objective of the transfer of the telephone line to a company independent of the State was to achieve a more effective recourse of corruptive activity within the authorities, self-administration and in the private sector. Altogether 727 clients<sup>3</sup> took advantage of the telephone line during the operation of the pilot project.

#### **Regarding subparagraph (b)**

7. Criminal or disciplinary liability is always concluded in each proven case of unlawful behaviour of a police officer. It is possible to commence particular proceedings only when the identified evidence suggests that the offender is a specific person. Should a specific person feel that damage has been done to him/her, even by supposed unlawful conduct of an officer or an employee of the police, he/she has the option to claim compensation from the Ministry of the Interior at any time.

#### **Regarding subparagraph (c)**

8. Legal and ethical aspects of official interventions are the priority of basic professional training, which all police officers must undertake as mandatory following their engagement in service.<sup>4</sup>

9. All education programmes of the police of the Czech Republic are in connection with the reform of the police thoroughly analysed, with the aim to ensure the following:

(a) To systematically support the education of police officers and office holders regarding customer service principles;

(b) To analyse and in case of need also to innovate the contents of school educational programmes, so that when implemented the practical and interactive approach is preferred;

(c) To propose a system in internal evaluation of education, the respondents of which will also be members of the general public.

All measures are directed towards the police work being a public service, based on strict compliance with legal and ethical standards. Compliance with these standards is also a part of the training of police officers implemented within the framework of a department during the entire duration of the service.

10. On 25 February 2008, the Government passed the bill on the Police of the Czech Republic. The draft law is currently being discussed by the Chamber of Deputies of the Parliament. The regulation amends the position of the Inspection of the Minister of the Interior, the direct personal connection between the Minister of the Interior and the Director of the Inspection being abolished (the Director will be newly appointed by the Government on the proposal of the Minister of the Interior following a discussion by the relevant committee of the Chamber of Deputies) and at the same time the inspection from the side of the Chamber of Deputies is established (submission of report on activity). Currently, however, the Inspection continues to be included in the framework of the organizational structure of the Minister of the Interior, so that it can continue to use the infrastructure of the sector in the area of informatics, analytics, economic provisions and technical services of specialized departments or expert police work departments (i.e. telephone tapping, surveillance).

11. The Government proposal brings new elements of independence into the system of investigating criminal activity of police officers, despite that the law was, in the part regarding the inspection of the police, passed by the Government as temporary. The Government charged the Minister of the Interior, the Minister of Finance and the Minister of Justice to submit to the Government by 31 December 2008 a bill on Inspectorate-General of security forces. The Inspectorate-General should be an independent inspection body standing outside the Ministry sectors, which would examine all members of security forces. A body drafted in this way could comply with the requirements of transparency and independency of investigating, which was formulated at the suggestion of the Government Council of the Czech Republic for Human Rights for the establishment of an independent body for investigation of violating actions of the members of armed security forces from 2006.

## **II. Observation contained in paragraph 14**

**“14. The Committee expresses concern that confinement in psychiatric hospitals can be based on mere ‘signs of mental illness’. It regrets that court reviews of admissions to psychiatric institutions do not sufficiently ensure respect for the views of the patient and that guardianship is sometimes assigned to attorneys who do not meet the patient (arts. 9 and 16).**

**The State party should ensure that no medically unnecessary psychiatric confinement takes place, that all persons without full legal capacity are placed under guardianship that genuinely represents and defends the wishes and interest of those persons, and that an effective judicial review of the lawfulness of the admission and detention of such person in health institutions takes place in each case.”**

## **Response**

12. A new law on health services is currently being prepared, which will amend conditions, the fulfilment of which will mean involuntary hospitalization of a person if: (i) the person shows signs of mental illness or intoxication and (ii) endangers directly and seriously him/herself or other persons. In comparison with the current legal regulation, there will be considerable

increase in strictness of the condition of danger: while it was so far sufficient for a person to endanger him/herself or other persons, the amendment will require such danger to be direct and serious.

13. The current regulation of the proceedings on expressing permissibility for admittance into a health institution (detention proceedings) requires the court to interview the patient. As procedural guardians, who are appointed by court to official duty, do not always perform their roles responsibly, the Government Council of the Czech Republic for Human Rights accepted in February 2008 an incentive to ensure legal aid, by which it proposes the establishment of a Low-Threshold Centre for Legal Aid. The provision of legal aid to involuntarily hospitalized persons should be one of the activities of the Centre.

14. Regarding the issues of guardianship, the Czech Republic is preparing in connection with the new legal regulation of the Civil Code an amendment of the regulation on guardianship. The current legal regulation, which was established in the 1960s and which is based on the concept of so-called “substitute decision-making”, will be replaced with a new legal regulation based on the principles of so-called “supported decision-making”.

### **III. Observation contained in paragraph 16**

**16. “The Committee regrets that the State party has not so far adopted an anti-discrimination bill. It remains concerned that, despite the adoption of relevant programmes, discrimination against Roma continues to persist in practice, including in the areas of labour, access to employment, health care and education. The Committee is concerned at discrimination faced by Roma in access to housing, as well as the persistence of discriminatory evictions and the continued existence of de facto ‘ghettos’ (arts. 2, 26 and 27).**

**The State party should take effective measures to combat discrimination. In particular, it should:**

- (a) Enact comprehensive anti-discrimination legislation that ensures effective protection for the victims of racial and related discrimination in all areas and related policies and programmes;**
- (b) Provide legal aid for victims of discrimination;**
- (c) Institute effective monitoring mechanisms and adopt indicators and benchmarks to determine whether relevant anti-discrimination goals have been reached;**
- (d) Provide additional training to Roma to equip them for suitable employment and to promote employment opportunities;**
- (e) Prevent unjustified evictions and dismantle segregation of Roma communities in housing;**

**(f) Conduct campaigns of public information to overcome prejudice against the Roma.”**

**Response**

**Regarding subparagraphs (a)-(c)**

15. The Czech Republic aspires to ensure protection to the victims of discrimination through the implementation of a special law. Specifically, the Government undertook in its statement of policy to adopt an anti-discrimination law, which should ensure the right of equal treatment and protection from discrimination within the intentions of the European Union regulations so that the prohibition of discrimination is effectively enforceable.

16. The Government passed the bill on equal treatment and on legal measures of protection from discrimination (Anti-discrimination Act) on 11 June 2007. By the day of elaboration of this statement, the bill was discussed by both Chambers of the Parliament of the Czech Republic, which expressed their agreement.

17. The bill amends the law on equal treatment and protection from discrimination for reasons of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The prohibition of discrimination will be set forth by the Act in a number of nominated spheres, which are: the right to employment and access to employment, access to vocational or entrepreneurial activity or other self-employed gainful activity, in the sphere of employment and other dependent activity including remuneration, membership and activities of trade unions, employee councils or other organizations of employers, membership and activities in professional associations including the benefits provided by such organizations to its members, in social security and social benefits, health care, education and access to goods and services which are provided to the public, including accommodation, and their provision. The Act further defines the titles which the victims of discrimination may claim.

18. The bill appoints the Ombudsman to secure equal treatment to the victims of discrimination: he should provide assistance in filing of motions to initiate proceedings on the grounds of discriminatory conduct, undertake research, publicize reports and issue recommendations in areas related to discrimination and ensure exchange of available information with competent European subjects.

19. Although as of this time there is no officially appointed public institution whose task is to protect the rights to equal treatment, the victims of discrimination do have a number of tools to seek protection, or ways of obtaining free legal aid, or obtaining legal aid on advantageous terms.

20. Protection from discriminating treatment is provided in the Czech Republic by general Courts (The Institute of Action for the Protection of Personal Rights in civil procedure). Criminal sanction of treatment connected with racial hatred or ethnic intolerance is ensured by relevant provisions of the Code of Criminal Procedure (Act No. 141/1961 Coll.) and the Criminal Act (Act No. 140/1961 Coll.). The protection from various forms of discrimination, especially on the

conceptual level and in formulating policies, falls under the competence of three advisory Government bodies - the Government Council of the Czech Republic for Human Rights, the Government Council for National Minorities and the Council for Roma Community Affairs. The issues of the fight against extremism and racially motivated criminal offences fall under the competence of a special interdepartmental body, which is the Commission for combating extremism, racism and xenophobia. The Commission is an advisory body of the Ministry of the Interior.

21. The Czech Trade Inspection is an inspection body, which monitors the adherence to terms laid down by special legal regulations or by other binding measures for the operation or provision of activities consisting in sale or supply of goods and products or in providing services, including the observation of the prohibition of discrimination.

22. In the subject of employment issues, inspection activity is on the basis of the employment law in the competence of the Ministry of Labour and Social Affairs, the Labour offices and Labour Inspectorates. Within the framework of inspection activities the Labour offices focus mainly on the observation of the prohibition of discrimination in access to employment.

23. Legal advice for victims of discrimination is also provided by a number of non-governmental organizations. Particular laws are further in place in the legal order of the Czech Republic, in accordance with which the victims of discrimination can also be represented by civic associations. In accordance with the Code of Civil Procedure (Act No. 99/1963 Coll.), Code of Administrative Procedure (Act No. 150/2002 Coll.), and the Consumer Protection Act (Act No. 634/1992 Coll.), the participant in proceedings regarding protection from discrimination can be represented by associations established in accordance with the Act on Association of Citizens (Act No. 83/1990 Coll.), providing the protection from discrimination falls under the activities determined by the regulations. The Consumer Protection law (Act No. 634/1992 Coll.) allows such associations to file motions to initiate court proceedings to restrain unlawful activities in the matters of protection of consumer rights and to be a participant in such proceedings.

#### **Regarding subparagraphs (d)-(f)**

24. For further positioning on the labour market, it is necessary to have gained a certain level of education. Therefore it is made possible for everyone who has not achieved a basic education to complete it through courses of basic education. Basic education courses can be offered by a primary school or a secondary school as a daytime study or distance learning in accordance with the framework education programme for basic education. In 2007, altogether 35 courses took place all over the Czech Republic and 344 students attended. The courses providing basic education fulfil the requirements of the Strategy of Lifelong Studying, the main objective of which is to suggest a universal system of evaluating the education gained outside the education framework and to enable those interested in the recognition of this education to inspect their knowledge by transparent and objective methods. The purpose of this is to create a background which motivates to take part in further education, especially for people with low qualifications, or people with the need to quickly and effectively change, improve or expand their qualification.

25. Currently a so-called curriculum reform<sup>5</sup> is under way in the Czech Republic. Education is based on the principles of equal approach and bearing in mind the educational needs of an individual. Education of pupils with social disadvantage is contained in the framework education programmes.

26. Funding programmes for the support of integration of the Roma community and for the support of Roma secondary school pupils are announced every year. For example the project “Centres for integration of minorities” aims at working with mothers and preschool children, at preparation for starting school, specification of educational needs at the start of schooling in relation with individual pupils’ needs and with the context of their cultural differences and their current social situation. Concerning the mothers, the care is orientated at the support and improvement of their parenting and social skills. The character of working with family, with mothers requires apart from professional competence the ability of workers to gain the trust of people in the communities, with which they work. Within one year of operation, the Centres for integration of minorities have already provided regular group care in 22 places in the Czech Republic. Other activities, which are usually one-offs, are introduced irregularly, mainly during school holidays and they provide to children and their families effective ways of spending free time complemented with educational activities.

27. In 2005, the Government adopted the Concept (Project) on Timely Care for Children from Socio-culturally Disadvantaged Backgrounds (hereinafter the “Concept”). The Ministry of Education, Youth and Sports in line with this Concept:

(a) Coordinates activities of individual institutions, which care for children, and with the aim to create joined social and psychological-pedagogical diagnosis of problems of children from at-risk backgrounds, including socially and socioculturally disadvantaged backgrounds and to carry out joint programmes and measures, which will influence the parents of these children to take on greater responsibility for the development of their children;

(b) Implements programmes and measures in the area of basic and further education of pedagogical workers, who work in preschool education of children from socioculturally disadvantaged backgrounds;

(c) Executes programmes and measures aimed at increasing the number of children from socioculturally disadvantaged backgrounds, who will be finishing their preschool education in nursery schools or in reception classes of primary schools for children from socioculturally disadvantaged backgrounds;

(d) Implements programmes aimed at pilot auditing of projects on early care for children from socioculturally disadvantaged backgrounds with the specialization on the establishment of centres for early care in nursery schools or primary schools, which are establishing primary school reception classes;

(e) Organizes residence courses for parents and children from socioculturally disadvantaged backgrounds from the age of three years up to the beginning of school attendance.

28. The objective of the Concept is primarily to increase the number of Roma pupils in the mainstream schooling and to improve their school achievements. Programmes and measures for timely care should be provided in such a way that they contribute to the enhancement of the developmental level of a child and that they provide opportunities for children from majority society and children from socioculturally different backgrounds spending time together. For example primary school reception classes for children from socioculturally disadvantaged backgrounds are used for the realization of the Concept. It is apparent from available statistics that their numbers are increasing.<sup>6</sup>

29. The Ministry of Education, Youth and Sports considers repressing prejudice towards Roma and generally dealing with social problems in education as one of their priorities. Therefore a new group for the area of social programmes in schooling was created. This group organizes and utilizes all activities of the Ministry and of organizations governed by the Ministry regarding the stated issues and it should contribute to total and effective solutions of these issues.

30. The framework of education programmes influences not only children, pupils and students but also their parents. The cooperation with parents and families is one of the tasks of each school and school institution. Public opinion is also largely affected by the present network of teacher's assistants for children with social disadvantages, often from Roma communities.<sup>7</sup>

31. Field work emphasizes full social work with a client directly inside the community. A social worker analyses the social situation of a family and with appropriate means using methods of social work contributes to the elimination of unwanted factors, which obstruct their integration into society. The most common issues the field workers face are accommodation, truancy, gambling, unemployment and drug addiction. However in the area of increasing employability of residents of socially excluded localities, the workers are currently not very successful.

32. In January 2008 the Government established an agency which will provide complete aid to local governments and their partner organizations in socially excluded Roma localities. The objective of the agency is to exploit the opportunity, which is offered by the new programming period of utilization from the European Union Structural Funds in the years 2007-2013 and to establish the necessary personnel and institutional foundation for the implementation of programmes and projects, which will fundamentally improve socio-economic conditions of Roma, will enhance their lifestyle and improve their access to the labour market and to majority education.

33. The Chamber of the Council of the Government of the Czech Republic for Roma Community Affairs, apart from other things, focuses on the elimination of prejudice and stereotypes towards the Roma community. In connection with the work of the Agency for prevention of social exclusion it contributes to change public opinion and create public support with the fulfilment of elimination of social exclusion strategy.

34. The education of police officers includes information on cultural and religious specifications of members of varied minority communities in the Czech Republic and on the role of the police in multicultural society.

35. The Secondary Police School of the Ministry of the Interior in Holesov will implement a project "Police for All" in the school year 2008/09, which will provide education for pupils from national minorities leaving year 9 of primary schools in the educational programme Performance of Security and Legal Activities. The main objective of the project is to provide members of national minorities with upper secondary education at the Police School of the Ministry of the Interior. School leavers from the lines of national minorities can enter (following the due acceptance procedure) into service of the police of the Czech Republic. The police will gain members from national minorities into their line-up thanks to this project and the Secondary Police School will contribute to the increase of competitiveness of minorities in the labour market.<sup>8</sup>

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

1/ By the resolution of the Government of the Czech Republic No 384.

2/ By the resolution of the Government of the Czech Republic No 384.

3/ As the majority of clients do not use the line only once, the operators of the 199 line dealt with approximately 1,600 relevant telephone calls during the pilot period. The structure of the areas, which the caller finds in his case as affected by corruption, is stabilized. Most frequent points of issue are from the private sector, ownership rights issues, court proceedings, procedures of the police of the Czech Republic and building issues.

4/ Innovated basic professional training will commence on 1 June 2008.

5/ Curriculum reform covers a number of activities and projects, from methodical support and further education of teachers for research purposes, pre-graduation preparation of pedagogical workers, free time activities and projects supported by the State and by European Structural Funds.

6/ The number of primary school reception classes was 164 in 2007/08. One hundred and one classes out of that were established in mainstream schools and 48 in primary schools for children with special educational needs. A total number of 1,929 children attended these primary school reception classes. Therefore in comparison with last school year the number of reception classes and the number of children increased significantly. The number of primary school reception classes in the year 2006/07 was 146. One hundred and two of these classes were established in mainstream schools, 44 in special schools and 1,713 children attended.

7/ Currently a total number of approximately 360 teacher assistants work in individual schools at all key stages in the Czech Republic.

8/ In April 2008, 12 of 51 applicants for the project "Police for All" were accepted and a

further 6 on appeal (which is altogether 18 applicants, consisting of 7 Ukrainian, 2 Polish, 1 Slovak, 4 Roma, 1 Vietnamese, 1 Cuban, 1 Moldavian and 1 Kazakh national).

**CCPR, CCPR/C/CZE/CO/2/Add.2 (2010)**

**Further information received from the Czech Republic on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/CZE/CO/2)**

[22 March 2010]

1. On 25 July 2007, following the examination of the second periodic report (CCPR/C/CZE/2) on the application of the International Covenant on Civil and Political Rights, the Human Rights Committee adopted the concluding observations (CCPR/C/CZE/CO/2). In clause 21 of its observations the Committee called upon the Czech Republic to provide within one year information on the method of their response to the observations of the Committee, contained in paragraphs 9, 14 and 16.

2. The Government of the Czech Republic approved the response of the Czech Republic to paragraphs 9, 14 and 16 on 23 July 2008 and they were sent to the Human Rights Committee on 18 August 2008. The Committee examined the response during its 94th session on 13 - 31 October 2008, found the response incomplete regarding certain issues and requested additional information to these issues.

3. The additional responses of the Czech Republic, approved by the Government on 1 March 2010, are as follows.

**Additional response to observation No. 9 (a) (CCPR/C/CZE/CO/2)**

4. On 23 May 2009, the Government of the Czech Republic approved a bill on the General Inspection of Security Forces. This statute introduces the united independent control of officers of the Police of Czech Republic, the Customs Service and Prison Guards Service, and facilitates the independent investigation and prosecution of criminal offences committed by their officers in keeping with the case-law of the European Court of Human Rights. The General Inspection of Security Forces is, according to the bill, a separate security corps independent of other security forces, but has the same powers as the current security forces and inspection bodies in matters of prosecution and criminal investigation. Its director is appointed by the Government and is controlled by the Security Committee of the Chamber of Deputies of the Czech Parliament. Anyone may report a crime, of which a security corps officer is suspected, to the Inspection. The bill is currently being debated in the Chamber of Deputies (Parliamentary Document No 794).

5. In the present situation, crimes committed by a police officer or member of police staff are investigated by the Police Inspection, which is a service of the Ministry of the Interior. Anyone may report a crime, of which a police officer is suspected, to the Inspection. The police is obliged to provide the Inspection with necessary assistance. The Inspection is headed by a director appointed by the Government after consultation with the parliamentary committee responsible for security. The director is accountable to the Government, which has the power to suspend him from office. Crimes by police officers are also investigated by authorized public prosecutors under the Ministry of Justice who also supervise the procedure and decision-making

of the police authority of the Czech Police Inspection before any criminal prosecution.

6. The Inspection also carries out tests of resistance to illegal conduct (reliability tests). Reliability tests consist mainly of evoking unlawful conduct where a police officer or employee is required by law to act against the offender, or other situations which the test person is required to address. If, during a test, circumstances are detected justifying the initiation of criminal or disciplinary proceedings, those proceedings are initiated and the test outcome is used in these proceedings. During the test, however, the person being tested must not be provoked to break the law.

7. Certain policing activities are also under the control of other competent independent authorities, such as the Office for Personal Data Protection in the handling of such data.

#### **Additional response to observation No. 9(b)**

8. As follows from the reports on internal security and public order in the Czech Republic in 2007 and 2008,<sup>1</sup> the Inspection of the Minister of the Interior (from 1 January 2009 the Czech Police Inspection) was investigating 21 cases of wilful bodily harm committed by police officers. The results of the investigations are shown in the following table:

<b>Wilful bodily harm</b>	<b>Number of cases</b>
<b>Outcome of criminal proceedings</b>	
Postponed on grounds of the legal impossibility or inexpediency of criminal prosecution	2
Referred for infraction or disciplinary proceedings	3
Conditional suspension of prosecution <sup>2</sup>	1
Acquitted	2
Convicted	3
Proceedings pending	10

9. According to information from the Inspection of the Minister of the Interior, in 2007 there were no investigations into crimes committed by police officers involving extremist, racist and xenophobic overtones. In 2008, there were two investigations into police officers suspected of crimes with extremist overtones. During the investigation, however, no extremist overtones were established and the acts were classified as rioting. In 2009, a police officer in Prague was investigated on suspicion of involvement in extremist assemblies and providing personal protection to the leaders of extremist groups for a fee; however, the initial suspicion has not been proven and the case has been postponed. In Brno, 14 police officers were investigated on suspicion of committing the crime of supporting and promoting movements aimed at suppressing

the rights and freedoms of citizens under Section 261 of the Crime Act. Following the investigation, the case was handed over for disciplinary proceedings.

10. Throughout the Czech Republic, eight inspections were conducted to determine whether members of the Czech Police attended extremist assemblies or took part in other extremist activities actively or as sympathizers; the participation of police officers was not established. The “use of physical violence” and “use of coercive means” by officers from all departments within the Czech Police in 2007, 2008 and the first quarter of 2009 was also investigated. This investigation did not identify any situation where certain units of the Czech Police or certain individual officers were involved in repeated acts of physical violence or the abuse of coercive means.

11. In 2007, the Czech Police received 3,403 complaints about the activities of its departments and officers, 465 of which were found to be justified and led to criminal or disciplinary proceedings on suspicion of committing an infraction, an administrative offence or a crime. In 2008, there were 2,985 complaints, of which 350 were found to be justified. The most common cause for complaint was the inappropriate conduct and behaviour of police officers.

12. Under the current legal situation, if officers from the Czech Police break the law, a complaint may be submitted to the Police Inspection, an institution subordinate to the Ministry of the Interior which has the power to investigate crimes by police officers. In cases involving the municipal police, the municipal authority of the municipality establishing the police unit may be contacted. It is also possible to make a complaint of suspected abuse of public office (literally “abuse of the power of a public servant”, from 1 January 2010 “abuse of the power of an official person”), which also applies to officers of the Czech Police and the municipal police, or of another suspected crime. Where a police officer was acting as a law enforcement body, the complainant may also submit a complaint to the supervising prosecutor in accordance with the Rules of Criminal Procedure. Forty-one police officers were convicted of the crime of abuse of public office in 2007, followed by 42 in 2008.

13. Compensation for injury caused by a police officer may be sought in compensation proceedings against the State or a municipality on grounds of damage caused by maladministration under special legislation, i.e. Act No 82/1998 Coll. The complainant may file a request for compensation with the Ministry of Justice if a police officer was acting as a law enforcement body or with the Ministry of the Interior if a police officer was acting in other areas within his competence.

14. If a crime is committed, its victim may ask the court to order the defendant in a judgment of conviction to provide compensation for damage caused by the crime. Damages are also one of the conditions for diversion of criminal proceedings, i.e. if the defendant provides compensation for the damage caused and meets other conditions; the criminal proceedings against him are discontinued. This may also have incentive effect. Moreover, if any police intervention results in damage including damage to health, the victim may seek damages against the responsible police officer in civil proceedings. In these proceedings, claimants may also seek compensation for non-pecuniary damage to their personal rights.

15. The Police Inspection does not currently keep any records of applications for damages resulting from improper police conduct involving the use of violence or inappropriate procedure. The Ministry of Justice only keeps general statistics on compensation granted for incorrect official decisions or maladministration in the judicial proceedings; these do not provide detailed information on the number of cases associated with the activities of the police as law enforcement bodies in criminal proceedings or on criminal proceedings where the victims have been awarded damages. The activities of NGOs dealing with victims of police violence indicate that, in civil proceedings in 2008, five persons were awarded damages for personal injury and non-pecuniary damage caused by police officers in two cases. In the first case the compensation was CZK 30,000, in the second CZK 100,000. At least one other case is currently pending before the courts.

#### **Additional response to observation No. 9(c)**

16. Czech Police officers are required to undergo basic vocational training and, where appropriate, take part in other programmes of specialized lifelong learning. Basic training currently lasts for nine months. An important part of training focuses on forming police officers' legal awareness of human rights and their powers and duties in the service to the public. An emphasis is placed on the practical handling of model situations and on learning examples of good practice. Police officers attend a basic course on Law, lasting 88 lessons, where they learn about the legal framework of their activities (constitutional law, human rights and freedoms, administrative law, police legislation). Practical actions are discussed in a course on Maintaining Law and Order (80 lessons), where police officers learn to apply their powers reasonably and lawfully. In a course on Communication and Police Ethics (38 lessons), officers learn about professional and effective communication with the public. Another specialized course - Resolving Conflict by Analysing Transactions (24 lessons) - deals with preparing officers to cope with public communication and negotiation in crises and conflicts and instructing them on the legal and effective management of such situations. Naturally, police officers also receive training in the use of coercive means (80 lessons) and service arms (70 lessons), where they are given a practical opportunity to apply legal knowledge of their powers and psychological knowledge in dealing with the public and the possible use of self-defence. Members of the Police Inspection also contribute to police training with lectures focusing on cases where police officers have committed crimes, taken excessive action, etc. The training process includes the cooperation of non-profit organizations, e.g. the "Antidiscrimination Police Training" programme organized by the Counselling Centre for Citizenship, Civil and Human Rights in 2007 was attended by nearly 900 police officers from all regions of the Czech Republic.

#### **Additional response to observation No. 14**

17. According to Act No 20/1966 Coll. on public health care, individuals may be placed in health-care facilities in principle only with their consent. Certain cases are stipulated in the Act where persons may be placed in such facilities or have their movement restricted during a stay in such facilities even without their consent.<sup>3</sup> Current legislation concerning procedure on the admissibility of placement in a medical facility (detention procedure) under the Rules of Civil Procedure requires that a medical facility, whenever it is to accept a person without his consent or whenever it is to restrict the free movement of such a person, must notify this fact within 24

hours to the court of local jurisdiction. The court, within seven days, examines whether the placement or restriction is lawful. The restricted person is a party to the proceedings and is appointed a lawyer as a guardian by the court if he fails to select a representative himself. The court examines the restricted person, his/her physician and other persons where requested by the restricted person. The court's decision is delivered to the patient (provided that he can understand its content), to his doctors and to the relevant institution.

18. If the court rules that the patient may be placed in a medical facility, it then assesses whether the patient may continue to be held there. In doing so, it examines evidence provided by an expert opinion and hears the patient and the treating physician. These proceedings must be completed within three months of the end of the proceedings on the admissibility of placing the person in the relevant facility. The court may decide that the patient may be kept in the medical facility for a maximum of one year; after this, the situation must be re-assessed and a decision taken on whether there is still legal reason to keep the patient in the facility. The patient, his guardian or other related person may apply for a review of the legitimacy of holding the patient in the facility at any time during this period, or the court may initiate proceedings itself without any such application.

#### **Additional response to observation No. 16(c)**

19. The Act No 198/2009 on equal treatment and on legal means of protection against discrimination and amending certain laws (the Antidiscrimination Act), mentioned in the Czech Republic's previous observations, entered into effect on 1 September 2009. Under this legislation, the equality body, within the meaning of EU law, is the Ombudsman.<sup>4</sup> The Ombudsman conducts research, publishes reports and makes recommendations on issues related to discrimination and is responsible for the exchange of available information with the relevant European bodies. Developments in the fight against discrimination are also monitored by advisory bodies to the Czech Government (the Human Rights Council, the Council for Roma Community Affairs, the Council for Equal Opportunities for Women and Men), as well as by the Ministry of Labour and Social Affairs, among others.

#### **Additional response to observation No. 16(d)**

20. The Czech Republic supports the employment of the Roma in several ways. Labour offices are required to draw up an individual action plan for the unemployed who have been in their records for more than five months or who are otherwise disadvantaged; this plan is binding on the job-seeker. Specific assistance for the Roma in improving their job prospects draws on active employment policy tools implemented by labour offices, including retraining, counselling programmes, community work and social jobs. In addition, local programmes are run by municipalities in collaboration with local non-profit organizations, including field social work programmes. In 2008, there were 86 such field social workers in 46 municipalities, who helped a total of 13,144 clients to cope with their everyday problems, not only at work, but also in the social area.

21. Labour offices and NGOs help Roma improve their skills and organize counselling programmes to help them to find employment. In 2008, in cooperation with the labour offices

over 3,200 Roma job-seekers found employment, a further 505 Roma job-seekers were enrolled in retraining, 1,620 took part in counselling programmes, in more than 1,600 cases employers received contributions for projects to provide community work and social jobs, and at least 986 Roma job-seekers were placed in projects of the European Social Fund to help integrate them into the labour market.

22. Under the European Social Fund's Human Resources and Employment Operational Programme, social business grants are available that support the business operations of employers where at least 30 per cent of employees are from socially-disadvantaged backgrounds, the business operations of persons from socially-disadvantaged backgrounds, and public-service projects where at least 75 per cent of users are from socially-disadvantaged backgrounds. In these areas, the State cooperates with more than 300 different entities, of whom more than two thirds are entrepreneurs. In 2008, for example, in the Most and Ostrava regions<sup>5</sup> a project entitled Assistance for the Long-Term Unemployed in the Ostrava and Most Regions assisted 3,523 Roma, of whom 2,739 attended retraining courses, 1,230 increased their computer abilities and 1,162 managed to find employment. Another almost 1,000 Roma were employed via the Human Resources Development Operational Programme.

23. The support of Roma in the labour market includes support for their training as a fundamental prerequisite for their further development. The Ministry of Education, Youth and Sports aims to increase the percentage of children attending kindergartens as this will help compensate the social, cultural and language handicaps which often result in their failure at primary school. For children who cannot attend a kindergarten, preparatory classes are set up at primary schools which intensively prepare children for entry to primary school. In the 2008/2009 school year, 166 preparatory classes were set up and were attended by 2,028 children. About half of Roma children attend kindergartens and preparatory classes.

24. Pupils without primary education may attain this level of education in courses designed for these purposes. Courses are established by primary or secondary schools after consultation with the school's founder and regional authority. These courses, held in accordance with the framework primary education programme, increase the job prospects of their participants.

25. Since 2003, the Ministry of Education, Youth and Sports has run a scheme to support secondary-school Roma pupils. Twice a year, 1,200 Roma pupils receive grants of up to CZK 7,000 each to cover the cost of school meals, travel, accommodation and the purchase of school supplies. Each year, the Ministry of Education, Youth and Sports provides CZK 10 million in such grants.

26. In the field of tertiary education, NGOs, in cooperation with higher education institutions, organize preparatory courses for university. In 2008, the Athinganoi Civic Association held language and computer literacy courses together with study consultancy and scholarship programmes. In addition, the Ministry of Education, Youth and Sports provided grants of over CZK 117 million to universities to support socially disadvantaged students. Importance is also attached to lifelong learning. The Slovo 21 Prague Roma Education and Employment Support Programme, focused on the lifelong learning and employment of Roma living in Prague, has helped 1,980 Roma, of whom 824 have completed training and retraining courses, 216 have

found employment thanks to the project, 11 have set up in business, and 85 are studying or continuing their secondary or higher education.

27. For several years, the Ministry of Education, Youth and Sports has regularly run a programme to promote the integration of the Roma community, which in 2008 was thematically focused on educational activities for children and pupils from Roma communities, their parents and preschool and primary school teachers, the successful transition of pupils to secondary education, career guidance, the leisure activities of children and pupils, school preparations and research and monitoring of the situation regarding the education of children, pupils and students. In 2008, this programme received funding of CZK 15 million and supported 87 projects. In 2009, the Ministry of Education, Youth and Sports announced a development programme to support schools providing inclusive education and education for children and pupils from a socio-culturally disadvantaged background. This programme funds the non-mandatory components in the pay of teaching staff who practice a pro-inclusive approach to teaching at school and in extracurricular activities.

28. Many schools have set up the post of teaching assistant to work with socially disadvantaged children. In 2008, support was provided to over 400 assistants, who can help tackle the children's problems on the spot by drawing on their knowledge of their background. In 2008, the Ministry of Education, Youth and Sports provided CZK 75 million for the development programme "Funding of Teaching Assistants for Socially-Disadvantaged Children, Pupils and Students". The further development of the teaching assistant concept depends on the financial capacity of the State, local authorities and individual schools. Children from socially disadvantaged backgrounds receive also help from a number of non-profit organizations, which provide additional teaching, tutoring, or organize extracurricular activities. Another important issue is the career guidance provided to pupils finishing their primary or secondary education with a view to helping them find a suitable path to follow for their future employment. In 2008, more than CZK 14 million was channelled into these projects.

#### **Additional response to observation No. 16(e)**

29. The issue of housing is largely beyond the immediate reach of the State, as the owners of housing are either municipalities or private operators. The renting of municipal housing as the management of municipal assets is a private-law action, in which the executive cannot interfere. Under Article 4 and Article 90 of the Constitution of the Czech Republic, the protection of private rights is in the competence of courts in civil proceedings, not administrative authorities in administrative proceedings. While the Ministry of the Interior supervises municipalities, this does not cover their private-law activities, which include the management of municipally owned housing. Municipalities' equality with other owners who are private persons means not only equal rights, but also equal responsibilities. Under article 11(3) of the Charter of Fundamental Rights and Freedoms "ownership obliges". In tenancy relations regarding the allocation of housing and conclusion of leases, municipalities must comply with laws and regulations, including the prohibition of discrimination in the provision of housing. If these are infringed, those affected may go to court in the same way as they would in other rental housing disputes with other landlords. Furthermore, municipalities also have the statutory duty to ensure that conditions are fostered to meet the needs of their citizens, including housing.

30. Rented housing is governed by the Civil Code, which protects the tenant as the weaker party. A lease may be terminated by agreement or notice; in most cases notice is subject to judicial approval. In these instances, the tenant also has the right to replacement housing or replacement accommodation. In the absence of judicial approval, notice may be served against lessees only in cases, specified by law, entailing a serious breach of the obligations of the tenant, i.e. generally if he fails to pay rent or breaches good morals in the building - under the case-law of the Supreme Court, under a breach of good morals in the building is regarded, for example, harassment of other tenants. Tenants may contest termination of the lease by bringing a claim with a court seeking the annulment thereof within 60 days of service of notice on the lease; tenants need not vacate the property until the court reaches a verdict. When assessing any notice, the court takes into account good morals, i.e. whether the exercise of the landlord's right to terminate the tenant's lease is in keeping with good manners.

31. The State's role in these matters is limited to methodological recommendations and coordination. Social exclusion, however, needs to be handled primarily preventively. The State supports municipalities and NGOs with subsidies to fund the work of field social workers who help socially excluded people address their problems and provide them with advice on housing, employment, financial matters, education, family issues, etc. The Government Council for Roma Community Affairs runs grant schemes aimed at preventing social exclusion and promoting field social work. In 2008, more than CZK 30 million was granted to 46 municipalities and 86 field social workers, along with 41 projects on the prevention of social exclusion and community work.

32. In 2007, the Ministry of Labour and Social Affairs published a Methodological Guide on Social Work in the Field for Social Service Providers. In 2009, the Ministry of the Interior, in collaboration with the Office of the Ombudsman, issued Recommendations for Municipalities to Prevent the Formation and Spread of Socially Excluded Localities, with an emphasis on housing needs. The aim of this material is to acquaint municipalities with problems and possible solutions, including examples of good practice. Both materials are available on the Internet and have been distributed to the relevant bodies.<sup>6</sup>

33. In January 2008, the Czech Government established the Agency for Social Inclusion in Roma Localities. Since then, the Agency has operated as a pilot project at the Office of the Government and under the Minister for Human Rights. The Agency operates in 13 locations throughout the country and strives, with the selected municipalities, to implement a programme offering a comprehensive solution to the situation in excluded locations primarily by providing expert advice in the development of local strategies and concepts. Municipalities will then themselves, together with other partners (NGOs, schools, labour offices, local employers and the Roma community), implement projects in support of employment, education and improvements in the quality of housing, aimed at residents of socially excluded localities. The goal is the transformation of these sites to such an extent that they either cease to exist or at least enjoy a significantly improved quality of life. Since 2008, integrated urban development plans have been in place in many municipalities, including formerly the most problematic cities in northern Bohemia.

34. In support of housing for the Roma and other socially vulnerable tenants, municipalities and private entities may apply for assistance from the State Housing Development Fund and the Integrated Operational Programme. Between 2003 and 2007, municipalities were awarded grants by the State Housing Development Fund. Since 2009, support for the construction of social housing has been available to both municipalities and private investors. Since 2003, the Ministry for Regional Development has also granted subsidies to municipalities for the construction of subsidized units for people at risk of social exclusion. Between 2003 and 2007, the State Housing Development Fund provided grants totalling CZK 12,911 million for the construction of 8,222 rental apartments. Between 2003 and 2008, the Ministry for Regional Development provided aggregate funding of CZK 97 million for the construction of 257 subsidized units intended for persons at risk of social exclusion. Unfortunately there is no way of determining how many of these flats were used by Roma.

35. Funds from the Integrated Operational Programme can be used by municipalities for the regeneration of socially excluded sites and for integrating their residents into normal life through social services, counselling, education, environmental improvements and better housing. Municipalities prepare an Integrated Development Plan, which consists of specific projects. A special group comprises pilot projects aimed at addressing the situation of socially excluded localities; these projects receive funding for housing subject to interconnection with social inclusion activities. Currently, 41 municipalities in the Czech Republic have drawn up an integration plan, of which six are pilot projects.

#### **Additional response to observation No. 16(f)**

36. Since 2006, the Czech Government has regularly held a government Campaign against Racism, which includes the award of grants to non-profit organizations' projects focusing on society's education and awareness regarding tolerance of minorities and the fight against prejudice and discrimination.

37. In 2006, a project by the Multikulturální centrum Praha [Prague Multicultural Centre] civic association called "National educational and awareness-raising activities" (a campaign to promote equal opportunities in the Czech Republic) was supported. The project consisted of educational seminars on discrimination and tolerance for public officials, teachers and students of secondary schools. It also offered legal training for public administration staff and police officers on discrimination and social and cultural differences, including familiarization with the possible ways to address problems and provide help to victims of discrimination. An important part was the presentation of examples of good practice and the prevention of discriminatory behaviour, particularly in the government sector. The campaign included various brochures and awareness-raising leaflets for public sector employees and the general public, which were sent to public libraries and schools and are still available on the website <http://www.diskriminace.info/>. Another project was *Weird Neighbour [Divnej soused]* by ARCHA Theatre. This project was produced by a theatre company which prepared open-air performances involving representatives of various ethnic and cultural traditions to acquaint the majority society, in a fun and interesting way, with different ethnic groups and cultures living in the Czech Republic and with their specific problems related to coexistence with the majority. The project was aimed especially at children and youth by using modern music and media.

38. In 2007, the Czech Republic participated in the European Year of Equal Opportunities. The Office of the Government and selected NGOs worked together to implement several projects aimed at promoting issues such as equal opportunities, the fight against discrimination, knowledge of the other and culture of ethnic, religious and cultural minorities in the Czech Republic among public administration workers, non-profit sector professionals, students and the general public. For example, a project by IQ Roma Service included theatrical and film performances for students and teachers, a film festival, an exhibition of photographs by Roma children called “How do I see it” and panels with antidiscrimination procedures for public employees, and the promotional cream “For All Skin Colours”, which was distributed among the general public.<sup>7</sup> The “Equality is Cool!” project by *\_lov\_k v t\_šni*, o.p.s. focused on the production of documentaries about discrimination for the general public and follow-up discussions involving, among others, over 7,000 students from the entire country. Some films were also distributed to schools, other youth establishments and non-profit organizations. Linked to this project was the Carnival of Diversity, another platform for screenings of films and accompanying cultural events shedding light on the life of minorities in the Czech Republic. The Carnival attracted audiences numbering more than 3,500 in total. *\_lov\_k v t\_šni* also held multicultural education courses for primary and secondary school teachers and other educational staff focusing on the Roma population, its cultural specifics and issues related to the social exclusion of Roma. The project included the production of a guide, “Tales of a Bad Neighbourhood - how to work on the theme of segregation in education and facilitate full participation in the educational process for Roma from an early age”. A specialist project by the Counselling Centre for Citizenship, Civil and Human Rights to combat discrimination continued with the further development of the information site at <http://www.diskriminace.info/> and seminars for public sector staff and students.

39. In 2008, the campaign supported a project by the Romea civic association called “Do Something!”, aimed at presenting positive Roma role models to increase the initiative and commitment of the Roma themselves and show them how to improve their quality of life. The campaign was also directed at mainstream society, which was shown the lives of successful Roma. The project centred on an advertising campaign on public transport, information panels at public authorities, a television spot, and the distribution of information leaflets in Roma localities. Another project was “Don’t Watch in Black and White - Enlightenment against Intolerance” by the Czech Helsinki Committee. This project focused on raising awareness against the intolerance and activities of the far rightwing in the Czech Republic in conjunction with the elimination of prejudices against Roma communities. The project consisted of discussions for children and young people in schools, workshops for educators on teaching about racism, and the publication of professional opinions and comments related to an information campaign.

40. IQ Roma Servis ran a project called “Trample Your Prejudices” in Brno. The aim of the project was to involve the local population in combating and eliminating prejudices and stereotypes against Roma. An important feature of this project saw Roma interacting with the majority population and the introduction of positive models and opportunities in education and future life for Roma youth. Young Roma were actively involved through the Forum Theatre and published their stories on panels in public institutions, means of transport and public transport stops and stations. The public took part in workshops and events aimed at crushing and

eliminating prejudice.

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<sup>1</sup> Both reports were approved by the Czech Government and submitted to the Chamber of Deputies.

<sup>2</sup> The conditional suspension of prosecution means that the prosecution is suspended if the defendant confesses to the crime and compensates the victim for damage caused, or takes appropriate steps to compensate the damage, and, given the circumstances of the case, this procedure is sufficient. The accused is given a probationary period of six months to two years and if, in that time, he leads a proper life and fulfils the obligations imposed, including the provision of damages, the criminal prosecution is discontinued, otherwise it is resumed.

<sup>3</sup> Under Section 23(4) of the Public Health Care Act, a person may be placed in a medical facility without his consent in cases where a disease or illness is established, or if he is a risk to himself or his surroundings on account of mental disease or intoxication, or if it is impracticable to obtain consent as a result of his state of health and urgent intervention is needed to save his life or health.

<sup>4</sup> [www.ochrance.cz](http://www.ochrance.cz).

<sup>5</sup> These regions have long reported the highest rates of unemployment in the Czech Republic.

<sup>6</sup> [http://www.mpsv.cz/files/clanky/4031/Metodicka\\_prirucka\\_TSP.pdf](http://www.mpsv.cz/files/clanky/4031/Metodicka_prirucka_TSP.pdf)  
[www.mvcr.cz/soubor/edsp-doporuceni-low-pdf.aspx](http://www.mvcr.cz/soubor/edsp-doporuceni-low-pdf.aspx)

<sup>7</sup> This cream was named the best anti-discrimination product at the closing conference marking the end of the European Year of Equal Opportunities in Lisbon.

## **CCPR, CCPR/C/CZE/CO/2/Add.3 (2010)**

### **Further information received from the Czech Republic on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/CZE/CO/2)**

[1 July 2010]

#### **Activities by the Minister for Human Rights in the “creation of a public information campaign to overcome prejudices against the Roma” (Additional response to Recommendation No. 16(f))**

##### **Roma integration policy 2010-13**

1. The Cabinet Minister for Human Rights is the Government’s coordinator of Roma issues. On 21 December 2009, the Government approved the Roma Integration Policy for the period from 2010 to 2013. This policy focuses on key themes related to the life of the Roma and proposes measures to improve their situation, to equalize their opportunities and to counterbalance the initial disadvantages that prevent them from participating fully in the cultural, social, economic and political life of mainstream society. The document deals with the institutional arrangements for Roma integration and proposes measures intended to facilitate the local implementation of the policies. It also focuses on the situation of Roma communities from the perspective of a national minority and concentrates on meeting their cultural needs. The Czech Government sees the development of Roma culture and the respect for their history and customs not only as a legitimate right of this national minority, but also as a means of emancipating the Roma and improving relations between them and the majority society. The proposed measures aim to promote research and development of theories about Roma culture, language and history, to further the integration of Roma culture into the mainstream culture of Czech society, and to nurture a lasting memory of the victims of the Roma Holocaust. By raising Czech society’s awareness of the Roma culture, language and history, it is possible to shape systematically public attitudes and eliminate stereotypes and prejudices, which are the cause of the symbolic exclusion of the Roma from Czech society. Such prejudices may be the first step to social exclusion and a major obstacle hampering the social inclusion of excluded Roma. In another section, this document deals with the situation faced by that part of the Roma minority suffering from barriers structurally and individually determined by social exclusion. Tackling the social exclusion of the Roma is also of fundamental importance for the society as a whole because this phenomenon threatens social cohesion, exacerbates relations between the majority and the excluded minority, and increases the risk of the spread of extremism in Czech society. The measures proposed in this area focus on key issues determining the quality of life of the Roma, particularly in education, employment, indebtedness, housing, health and welfare. The document also includes recommendations for municipalities, reflecting best practices and examples of good practice that already exist in some localities in the Czech Republic and that are improving the situation of Roma communities. The Minister’s Office is making preparations to submit a Strategy to Combat Social Exclusion to the Government; this is intended to be a new Government plan to address this issue.

## **Long-term monitoring of the situation of Roma localities**

2. In 2006, the Government decided to introduce a regular, systematic and long-term survey of the effectiveness of Roma integration measures and of the efficiency of public spending. In 2009, a Long-term Monitoring of the Situation of Roma Localities in the Czech Republic was implemented in five socially excluded localities in the Czech Republic (Ústí nad Labem, Most, Cheb, Broumov and Šluknovsko - Krásná Lhota, Varnsdorf, Česká Kamenice and the surrounding villages), where the Agency for Social Inclusion in Roma Localities is active. The objectives of this research project were to map the initial situation of the local population, to provide a basis for effective activity by local partnerships in the individual locations and to identify and assess the effectiveness of integration measures used in the locations surveyed. The qualitative and quantitative data collected will serve as a relevant basis for the operations of the Agency for Social Inclusion in Roma Localities, and for the decisions of the bodies of central and local government and other Roma inclusion entities (e.g. social service providers) who wish to draw up and implement measures towards improving the situation of Roma communities.

## **Roma holocaust monuments**

3. The Minister for Human Rights pays significant attention to the Roma Holocaust. He has helped resolve the problem of reverence for the victims of the former Roma labour camps in Lety u Písku and Hodonín u Kunštátu. The Roma Holocaust Memorial in Lety is now managed by the State-sponsored organization Památník Lidice (Lidice Memorial<sup>1</sup>), which will ensure dignified and proper professional and financial care. The existing memorial will also be suitably modified and extended. In Hodonín u Kunštátu, an International Education and Conference Centre (Clov Centre) will be established. This Centre will be managed by the Museum of Roma Culture in Brno, in cooperation with the non-profit organization Centrum Clov (Clov Centre), set up by the Ministry of Education, Youth and Sports. The Centre will host lectures and other educational events for professionals and the general public. It will include exhibition space shedding light not only on the history of the labour camp, but also on the life of the Roma community in the history of the Czech Lands. At both memorials, the public will be able to honour the victims of the Roma Holocaust, learn about this still neglected topic of Czech history, and find out more about Roma history and traditional culture, thereby providing a better understanding of the contemporary life and culture of the Roma.

## **Combating extremism**

4. As an important weapon in the fight against racism, the Minister for Human Rights initiated an agreement among constitutional officials (the chairpersons of parties represented in the Chamber of Deputies, members of the Government and both chambers of Parliament) on a common position against right-wing extremism, in which politicians pledged not to abuse populist themes in their election campaigns and to support activities leading to the suppression of racist and extremist positions. The agreement was signed, among others, by the former Czech President Václav Havel.

5. The Minister for Human Rights, jointly with the Minister of the Interior, submitted a draft

amendment to the Act on the Right of Assembly which extended the time limit for municipalities to assess whether a notified assembly is in violation of the law from “three days” to “three working days”; this amendment was approved by Parliament<sup>2</sup>. As a result, municipalities are better positioned to consider all the circumstances of a notification of an assembly, and to determine whether it is possible to prohibit the assembly in order to protect other fundamental rights (public safety, human health and life, etc.). The Ministry of the Interior also prepared a “Guide to the Act on the Right of Assembly for Municipalities”, which was sent to all regional authorities for their own use and for distribution to municipalities; the Guide was also provided to the Association of Towns and Municipalities. An electronic version of the Guide is available on the websites of the Ministry of the Interior and the Association of Towns and Municipalities.

6. In 2009, the Campaign against Racism, which is managed by the Office of the Minister for Human Rights, was backed by a booklet entitled *Uninvited Guests (Nezvaní hosté)*, which was produced as a collaborative effort by the non-profit organizations People in Need, Tolerance and Civil Society, In IUSTITIA, Romea, and the Czech-German Future Fund. The booklet describes the extremist and neo-Nazi scene, deals with experience of gatherings and other events by this society group, and explains the opportunities available to confront the activities of extremist movements. The aim is to raise awareness of the risks associated with racism, extremism, and generally promoting hatred of certain groups, and to explain that the best means of defence against extremism is the strength and unity of civil society. The booklet has been distributed to regional and municipal authorities and is also available online<sup>3</sup>.

7. Another major success in the fight against extremism was the dissolution of the extreme right-wing Workers’ Party (Dělnická strana) by the Supreme Administrative Court on 17 February 2010. The Supreme Administrative Court found that, despite the high value of the constitutionally guaranteed right of assembly and the important role played by political parties in a modern democracy, this role cannot be misused to suppress the very foundations of democracy, to violently promote ideology incompatible with democracy, to suppress the equality of citizens, to incite racial, ethnic and social intolerance and, ultimately, to restrict fundamental rights and freedoms of certain parts of the Czech population or even to fight a violent armed struggle against the State, democracy and its principles. Since the Workers’ Party’s activities met these conditions, the Supreme Administrative Court ordered its dissolution. In taking this action, it also demonstrated the significant limits on assemblies and political functioning of the democratic rule of law. The judgement was also confirmed by the Constitutional Court.

## **SOPPRAN**

8. The Standing Expert Panel against Racism and Violence (SOPPRAN) meets under the auspices of the Minister for Human Rights. The panel’s members include Václav Havel, the Ombudsman Otakar Motejl and human rights experts working both independently and, for example, as constitutional judges (Eliška Wagnerová), political scientists (Jacques Rupnik), Church intellectuals (Jakub Trojan) or members of international monitoring bodies on human rights (Anna Šabatová, member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe). The panel acts as an advisory body to the Minister for Human Rights and its aim is to discuss current issues related to the protection of human rights and tolerance, and to seek comprehensible language for the

promotion of such themes that can be respected by the general public.

### **Sterilization in violation of the law**

9. At the instigation of the Minister for Human Rights, a Government Resolution was adopted in which the Government expressed regret at the individual errors identified in the sterilization of women in contravention of a Directive of the Ministry of Health, and an initiative drawn up by an advisory body to the Government - the Government Council for Human Rights, which has dealt with this issue long term - was approved. This initiative proposes further steps and procedures to ensure that such actions never happen in the future. The initiative was discussed by the Government in November 2009. The public and the sterilized women welcomed the apology and the first steps in this matter<sup>4</sup>. Under this Resolution, the Government ordered the Ministry of Health to carry out other tasks aimed at preventing a recurrence of similar cases which happened in the past. These tasks include the Minister's obligation to provide the Government with information about the implementation of recommendations proposed by an expert advisory body to the Minister for Health, the incorporation of the sterilization issue into the programme of the Expert Forum for the Creation of Standards of Care and the Concentration of Selected Highly Specialized Care, and, as part of prevention and further training, to contact directly managed organizations and health care facilities in the Czech Republic which provide care in the field of gynaecology/obstetrics to verify and ensure compliance with legislation in the performance of sterilization.

### **Council conclusions on Roma inclusion**

10. On the international stage, the Minister for Human Rights helped highlight the problems of Roma inclusion and the way it is grasped internationally. During the Czech Presidency (CZ PRES) of the Council of the European Union (EU), Prague hosted the first meeting of the Integrated Platform for Roma Inclusion. The main objective of the Platform, consisting of representatives of EU Member States, the European Commission and NGOs, is to coordinate and facilitate the emergence of integration policies at national level in EU countries and to facilitate the sharing of good practice at the level of governments, NGOs and international organizations dealing with Roma issues. CZ PRES subsequently drafted the Principles on Roma Inclusion in the EU, adopted on 8 June 2009 by the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) as EU Council Conclusions<sup>5</sup>. The principles are as follows:

1. Constructive, pragmatic and non-discriminatory policies and legislation ensuring equal opportunities;
2. Explicit but not exclusive targeting of the Roma (non-exclusive in the sense that it does not add different, additional privileges and rights, but strictly ensures equal opportunities for Roma);
3. Intercultural approach (to combat stereotypes and prejudice, intercultural education with full recognition of the affairs of the Roma and their culture and history);
4. The aiming of all policies for the mainstream of national policy (to ensure, in particular, inclusion in the open labour market, education and housing, services for Roma, etc.);

5. Awareness of gender equality and fairness (the issues of gender equality as a topic of multiple discrimination need to be addressed specifically in relation to the Roma);
6. Transfer of evidence-based policies (policies emerging in all cases on the basis of thorough data analysis);
7. Use of Community instruments (the Community Social Service Development Plan, the medium-term outlook) at regional, national and Community level in the fields of administration, legislation and access to justice;
8. Involvement of regional and local authorities;
9. Involvement of civil society;
10. Active participation of the Roma in the process of integration and in inclusive and other policymaking.

### **Other international activities**

11. The Minister for Human Rights prepared an analysis of several international documents for the Government. These documents were the report by the FRA (EU Agency for Fundamental Rights) on the situation of minorities in the EU, entitled “Mapping discrimination across Europe: an examination of minorities and discrimination in the European Union (EU MIDIS)”. This report showed that, of all minorities in the EU, Czech Roma feel the most discriminated against. The Minister prepared a brief expert analysis of the report which showed that Czech Roma have a high awareness of discrimination issues and therefore they have a keen perception of discrimination compared to other groups. In the Czech Republic, awareness of discrimination issues has worked well, and there are institutions (the Ombudsman, NGOs) that specialize in combating discrimination. Evidence of the sound knowledge of discrimination among Czech Roma includes the high number of reported cases compared with other EU countries. The Government was also informed of the institutional arrangements for the integration of Roma into society in the Czech Republic and of the situation faced by the Roma in the Czech Republic and other EU Member States. Both documents were then forwarded to the Czech missions for the dissemination of information about Roma integration in the Czech Republic abroad. The Minister was also active in negotiations with Canada on visa requirements in 2009. In January 2010, he informed the Government of developments in the way Canada viewed the handling of Roma integration in the Czech Republic in the years 2007 to 2009.

### **Gypsy spirit**

12. In 2009, the Minister for Human Rights declared the first annual Czech prize called Gypsy Spirit 2009. The competition was founded in early 2009 in Slovakia in order to showcase the efforts and achievements of people who in any way contributed to the development of the Roma or Roma culture and identity. Popularization of the prize-winners provides positive role models to the Roma themselves and gives the majority society the opportunity to learn about positive examples of cooperation and good coexistence between the Roma and majority society. Another

of the objectives of Gypsy Spirit is to eliminate certain stereotypes in the perception of the Roma. The project patrons were Václav Havel and the former EU Commissioner Vladimír Špidla; the jury included such prominent figures as the Archbishop of Prague, Cardinal Miloslav Vlk and the Organization for Security and Co-operation in Europe (OSCE) adviser on Roma and Sinti issues, Andrzej Mirga. The prize-winners were:

- In the “Individual” category: Ladislav Goral, a Roma linguist and sociologist;
- In the category of “Company promoting projects aimed at the social assistance and support of the Roma community”: the Museum of Roma Culture in Brno, as an institution long supporting the research and documentation of Roma history and culture in the Czech Republic;
- In the “NGO” category: Czech West (Český západ), from Dobrá Voda in the Karlovy Vary region, for realizing projects geared towards Roma integration and the development of civil society for the Roma and non-Roma community. This association helps Roma to integrate into everyday working life, offers training and counselling for adults and education and leisure activities for children, operates a textile and ceramic workshop, and performs other activities related to the everyday life of the Roma and the majority society in Dobrá Voda;
- In the category of “Extra-curricular educational activities for Roma children and young people”: Svitavy-Laňov Primary School, a small-class elementary school where a third of pupils are Roma children; it is dedicated to the organization of extra-curricular activities focusing on cultural and social links between the local Roma community and the majority. The school organizes cultural events for the public, runs special-interest clubs, makes active use of Roma school assistants, tries to secure through various projects funding for children from underprivileged families to go on school trips in the countryside, on excursions, etc;
- In the “Deed of the Year” category: the Children’s Intensive and Resuscitation Care Unit, Teaching Hospital in Ostrava, headed by Michal Hladík, for exemplary health care for little Natálka Siváková, a two-year-old girl who suffered burns to most of her body during an arson attack on her parents’ house in Vítkov, Northern Moravia.

13. The award ceremony, held in Prague on 1 December 2009, was broadcast live by Czech Radio; a recording was also shown on Czech Television.

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<sup>1</sup> The Lidice Memorial commemorates the destruction of the village of Lidice and the execution of the majority of its population by the Nazis in 1942 (see [http://www.lidice-memorial.cz/default\\_en.aspx](http://www.lidice-memorial.cz/default_en.aspx))

<sup>2</sup> Act No 294/2009 amending Act No 84/1990 on the right of assembly, as amended, effective from 19 September 2009.

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Available from  
<http://www.vlada.cz/assets/clenove-vlady/ministri-pri-uradu-vlady/michael-kocab/tz/Nezvani-hoste.pdf> <http://clovekv tisni.cz/download/pdf/206.pdf>

4

For the response, see also <http://www.ipsnews.net/news.asp?idnews=49444>

5

Available from <http://ec.europa.eu/social/BlobServlet?docId=2808&langId=en>